

STATE OF MAINE

v.

AARON KINZEL

Submitted on Briefs December 13, 2002  
Decided December 17, 2002

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, ALEXANDER,  
CALKINS, and LEVY, JJ.

MEMORANDUM OF DECISION

Aaron Kinzel appeals from a judgment entered in the Superior Court (Aroostook County, *Pierson, J.*) after a jury-waived trial convicting him of attempted murder (Class A), 17-A M.R.S.A. §§ 152, 201 (1983); reckless conduct with the use of a dangerous weapon (Class C), *id.* §§ 211, 1252(4); and criminal threatening with the use of a dangerous weapon (Class C), *id.* §§ 209, 1252(4). Contrary to his contention, the court did not abuse its discretion in permitting an investigating officer to testify about video and audio tapes as they were being played for the court and about still photos made from the videotapes. Furthermore, the issue of Kinzel's knowing and voluntary waiver of a jury trial was decided

adversely to him by the post-conviction court (*Mead, J.*). A discretionary appeal of that issue was denied, *Kinzel v. State*, Docket No. Aro-01-351 (Aug. 9, 2001), and therefore the issue cannot be raised on the direct appeal of his conviction, *see* 15 M.R.S.A. § 2131(1) (Pamph. 2002).

The entry is:

Judgment affirmed.

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