

STATE OF MAINE

v.

MAXWELL MENDEZ

Submitted on Briefs September 27, 2011

Decided September 29, 2011

Panel: SAUFLEY, C.J., and ALEXANDER, LEVY, SILVER, MEAD, and JABAR, JJ.

MEMORANDUM OF DECISION

Maxwell Mendez appeals from a judgment of the Superior Court (Kennebec County, *R. Murray, J.*) following a jury verdict finding him guilty of domestic violence assault (Class D), 17-A M.R.S. § 207-A(1)(A) (2010). Mendez argues that the evidence was insufficient to support the jury's verdict. Viewing the evidence in the light most favorable to the State, the jury could have rationally found beyond a reasonable doubt that Mendez intentionally, knowingly, or recklessly struck his wife on the left side of her face with a closed fist, thereby causing bodily injury in the form of pain. *See* 17-A M.R.S. § 2(5) (2010); *State v. Cook*, 2010 ME 81, ¶ 7, 2 A.3d 313. Thus, the evidence was sufficient to support the jury's verdict.

Mendez also contends that (1) the trial court should have declared a mistrial on its own initiative based on a witness's unresponsive answers; and (2) the trial court's jury instructions failed to adequately inform the jury of the State's burden of proof in light of the prosecutor's closing argument. We review for obvious error because Mendez did not move for a mistrial and did not object to the jury instructions. *See* M.R. Crim. P. 52(b); *State v. Burdick*, 2001 ME 143, ¶ 13, 782 A.2d 319; *State v. Young*, 2000 ME 144, ¶ 5, 755 A.2d 547. Having reviewed the

record, we find no error. *See State v. Lockhart*, 2003 ME 108, ¶ 44, 830 A.2d 433 (concluding there was no obvious error where trial judge's oral instructions to the jury correctly explained the State's burden of proof); *State v. Chasse*, 2000 ME 90, ¶ 12, 750 A.2d 586 (finding no obvious error where trial court did not declare mistrial sua sponte when defendant appeared before the jury wearing prison garb).

The entry is:

Judgment affirmed.

On the briefs:

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appellant Maxwell Mendez

Evert N. Fowle, District Attorney, and James G. Mitchell, Jr., Asst. Dist.
Atty., Augusta, for appellee State of Maine