

STATE OF MAINE

v.

EDWIN F. FISHER

Submitted On Briefs July 26, 2011

Decided July 28, 2011

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

MEMORANDUM OF DECISION

Edwin F. Fisher appeals from a judgment of conviction for gross sexual assault (Class A), 17-A M.R.S. § 253(1)(C) (2010), entered in the Superior Court (Aroostook County, *Hunter, J.*) following a jury trial. The court granted Fisher post-conviction relief allowing him to pursue this otherwise untimely appeal pursuant to 15 M.R.S. § 2130 (2010).

Contrary to Fisher's contention, despite any inconsistencies in the victim's testimony, the weight and credibility of a witness's testimony are exclusively matters for the fact-finder's determination. *State v. Filler*, 2010 ME 90, ¶ 24, 3 A.3d 365, 372; *State v. Kaler*, 1997 ME 62, ¶ 8, 691 A.2d 1226, 1230. Fisher's contention that the State made improper comments during closing arguments is also not persuasive. *See State v. Stanton*, 1998 ME 85, ¶ 13, 710 A.2d 240, 244; *State v. Greene*, 512 A.2d 330, 334 (Me. 1986).

Finally, we discern no error, let alone obvious error, in the court's jury instruction regarding witness credibility. *See* M.R. Crim. P. 52(b); *State v. Roberts*, 2008 ME 112, ¶ 21, 951 A.2d 803, 811. The court properly informed the jury that it could consider whether any inconsistencies in any witness's version of events were innocent or intentional in evaluating that witness's credibility. *See*

Alexander, *Maine Jury Instruction Manual* § 6-24 at 6-37 (4th ed. 2011); *see also* *Filler*, 2010 ME 90, ¶ 24, 3 A.3d at 372.

The entry is:

Judgment affirmed.

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