

STATE OF MAINE

v.

WAYNE M. STERLING

Submitted on Briefs December 13, 2013
Decided December 24, 2013

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

MEMORANDUM OF DECISION

Wayne M. Sterling appeals from a judgment of conviction of gross sexual assault (Class A), 17-A M.R.S. § 253(1)(A) (2012), domestic violence assault (Class D), 17-A M.R.S. § 207-A(1)(A) (2012), and domestic violence criminal threatening (Class D), 17-A M.R.S. § 209-A(1)(A) (2012), entered by the trial court (*Warren, J.*) after a jury trial.¹

Contrary to Sterling's contention, the court did not err in instructing the jury on the definition of "bodily injury," 17-A M.R.S. § 2(5) (2012), in addition to the definition of "serious bodily injury," 17-A M.R.S. § 2(23) (2012). *See* 17-A M.R.S. § 2(5), (23) (2012); *State v. Philbrook*, 2013 ME 86, ¶ 12, ---A.3d ---; *State v. Okie*, 2010 ME 6, ¶ 8, 987 A.2d 495 ("Jury instructions that track the language of the Criminal Code are generally adequate to inform the jury of the applicable law.").

¹ Sterling does not challenge his convictions for domestic violence assault, 17-A M.R.S. § 207-A(1)(A) (2012), or domestic violence criminal threatening, 17-A M.R.S. § 209-A(1)(A) (2012), in his brief and accordingly we do not consider either conviction in this appeal.

Furthermore, the court did not abuse its discretion in denying Sterling's motion for dismissal or continuance as a result of a discovery violation by the State. *See State v. Twardus*, 2013 ME 74, ¶ 32, 72 A.3d 523 (setting forth elements of a *Brady* violation); *State v. Silva*, 2012 ME 120, ¶ 8, 56 A.3d 1230 (setting forth the abuse of discretion standard of review for alleged discovery violations); *State v. Gould*, 2012 ME 60, ¶ 28, 43 A.3d 952 (finding no *Brady* violation when the defendant received withheld evidence the morning the trial began).

Finally, the evidence, when viewed in the light most favorable to the State, was sufficient for a fact-finder to rationally find each element of gross sexual assault beyond a reasonable doubt. *See State v. Robbins*, 2010 ME 62, ¶ 14, 999 A.2d 936.

The entry is:

Judgment affirmed.

On the briefs:

William Maselli, Esq., Portland, for appellant Wayne Sterling

Stephanie Anderson, District Attorney, and Anne Berling, Asst.
Dist. Atty., Prosecutorial District Two, Portland, for appellee
State of Maine