

ERIC P. MAXHAM

v.

AMY M. CARIGNAN

Argued May 15, 2013  
Decided May 30, 2013

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

## MEMORANDUM OF DECISION

Eric P. Maxham appeals from a judgment of the Superior Court (Cumberland County, *Wheeler, J.*) entered in favor of Amy M. Carignan following a jury trial on Maxham's tort claim.

Contrary to Maxham's primary contention on appeal, the court did not err in providing a rule of the road instruction based upon 29-A M.R.S. § 2070(6) (2012). *See WahlcoMetroflex, Inc. v. Baldwin*, 2010 ME 26, ¶ 14, 991 A.2d 44 (stating the standard of review when an objection was preserved and that we review the instructions in their entirety to determine if they "fairly and correctly apprised the jury in all necessary respects of the governing law"). The instruction was sufficiently generated by the evidence and was a correct statement of current statutory law. *See* 29-A M.R.S. § 2070(6); *Westlake v. Morton*, 655 A.2d 334, 336 (Me. 1995) (holding that the court did not err in giving an instruction because the instruction was not based on "an impossible and impracticable theory which ha[d] no support in the evidence").

Maxham also contends that the court erred when it either provided or inadequately explained three other instructions. We review these unpreserved

claims of error for obvious error only and conclude that there was none. *See Batchelder v. Realty Res. Hospitality, LLC*, 2007 ME 17, ¶ 10, 914 A.2d 1116 (stating that, to preserve an objection to a jury instruction, one must “state distinctly the ground for the objection”); *Morey v. Stratton*, 2000 ME 147, ¶¶ 9-10, 756 A.2d 496 (reviewing an unpreserved objection to a jury instruction for obvious error).<sup>1</sup>

The entry is:

Judgment affirmed.

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**On the briefs and at oral argument:**

Jon A. Languet, Esq., Languet Law, LLC, Topsham, for appellant Eric P. Maxham

James B. Main, Esq., Hoy & Main, P.A., Gray, for appellee Amy M. Carignan

Lauri Boxer-Macomber, Esq., Kelly, Remmel & Zimmerman, Portland, for amicus curiae Bicycle Coalition of Maine

Cumberland County Superior Court docket number CV-2011-69  
FOR CLERK REFERENCE ONLY

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<sup>1</sup> To the extent that Maxham alludes to additional arguments in his reply brief, we consider those arguments waived or unpreserved and do not address them. *See* M.R. App. P. 9(c); *Mehlhorn v. Derby*, 2006 ME 110, ¶ 11 & n.6, 905 A.2d 290; *Holland v. Sebunya*, 2000 ME 160, ¶ 9 n.6, 759 A.2d 205.