

STATE OF MAINE

v.

O TROY STEVENS

Submitted on Briefs June 26, 2013

Decided July 9, 2013

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

MEMORANDUM OF DECISION

O Troy Stevens appeals from a judgment of conviction of domestic violence assault (Class C), 17-A M.R.S. § 207-A(1)(B)(1) (2012), entered by the trial court (*Nivison, J.*). Contrary to Stevens's argument, the court did not abuse its discretion by denying his motions for a mistrial and a new trial because the court sustained Stevens's objection to the prosecutor's rebuttal argument concerning an expert medical witness and provided a curative instruction directing the jury that the entire burden of proof rested on the State and Stevens was not required to call any witnesses. *See State v. Carr*, 2012 ME 136, ¶ 8, 58 A.3d 1102; *State v. Dolloff*, 2012 ME 130, ¶¶ 32, 55, 58 A.3d 1032; *State v. Lockhart*, 2003 ME 108, ¶ 39, 830 A.2d 433; *cf. State v. Brewer*, 505 A.2d 774, 777 (Me. 1985). Stevens's argument that the court abused its discretion by denying his motion to strike the testimony of the State's rebuttal witness also fails because the error, if any, was harmless. *See* M.R. Crim. P. 52(a); M.R. Evid. 401, 402; *United States v. Flores-De-Jesús*, 569 F.3d 8, 27-28 (1st Cir. 2009); *United States v. Houlihan*, 92 F.3d 1271, 1297 (1st Cir. 1996); *State v. Cyran*, 586 A.2d 1238, 1240 (Me. 1991); *State v. Worrey*, 322 A.2d 73, 78 (Me. 1974); *cf. United States v. McKneely*, 69 F.3d 1067, 1076 (10th Cir. 1995).

The entry is:

Judgment affirmed.

On the briefs:

William Baghdoyan, Esq., Augusta, for appellant O Troy Stevens

Maeghan Maloney, District Attorney, Prosecutorial District IV, Augusta,
for appellee State of Maine

Kennebec Superior Court docket number CR-2012-00238
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