

STATE OF MAINE

v.

RICHARD E. SALOMON

Submitted on Briefs October 24, 2017  
Decided October 31, 2017

Panel: SAUFLEY, C.J., and MEAD, GORMAN, JABAR, HJELM, and HUMPHREY, JJ.

MEMORANDUM OF DECISION

Richard E. Salomon appeals from a conviction of criminal OUI, 29-A M.R.S. § 2411(1-A)(A)(1) (2016), and criminal speeding, 29-A M.R.S. § 2074(3) (2016), entered by the trial court (Penobscot County, *Campbell, J.*) following a jury trial. On appeal, Salomon argues that the prosecutor engaged in misconduct during her rebuttal closing argument by (1) repeating only a portion of the court's jury instruction on the beyond a reasonable doubt standard and (2) by encouraging the jurors to draw inferences based on their life experiences and common sense.

When, as here, "an objection has been made to a prosecutor's statements at trial, we review to determine whether there was actual misconduct, and, if so, whether the trial court's response remedied any prejudice resulting from the misconduct. . . . Finally, we determine whether, if error exists, it was harmless." *State v. Dolloff*, 2012 ME 130, ¶ 32, 58 A.3d 1032 (citations omitted). Contrary to Salomon's contentions, the prosecutor did not engage in any misconduct. The judge had already provided the jury with a complete instruction on beyond a reasonable doubt and the prosecutor did not represent to the jury that she was repeating that instruction in full in

her rebuttal. Furthermore, “[d]uring closing argument, the State may appeal to the jury’s common sense and experience without crossing the line into prohibited argument.” *State v. Dube*, 2016 ME 50, ¶ 17, 136 A.3d 93 (quotation marks omitted).

The entry is:

Judgment affirmed.

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Erik T. Crocker, Esq., Farrell, Rosenblatt & Russell, Bangor, for appellant  
Richard E. Salomon

R. Christopher Almy, District Attorney, Mark A. Rucci, Asst. Dist. Atty., and  
Mercedes Gurney, Stud. Atty., Prosecutorial District V, Bangor, for appellee  
State of Maine