

STATE OF MAINE

v.

RUSSELL R. BLENKHORN JR.

Submitted on Briefs September 14, 2006
Decided October 18, 2006

Panel: SAUFLEY, C.J., and CLIFFORD, DANA, ALEXANDER, CALKINS,
LEVY, and SILVER, JJ.

MEMORANDUM OF DECISION

Russell R. Blenkhorn Jr. appeals from a judgment of conviction for gross sexual assault (Class A), 17-A M.R.S. § 253(1)(A) (2005), entered after a jury trial in the Superior Court (Hancock County, *Mead, J.*). Contrary to Blenkhorn's contention, the evidence, when viewed in a light most favorable to the State, was sufficient for a fact-finder to rationally find each element of the offense, including compulsion, beyond a reasonable doubt. *See State v. Kotredes*, 2003 ME 142, ¶ 9, 838 A.2d 331, 335.

Furthermore, we reject Blenkhorn's contention that the definition of "compulsion" in 17-A M.R.S. § 251(1)(E) (2005) is vague or internally inconsistent. The statutory definition of "compulsion" unambiguously requires a

level of force that the victim is unable to resist, while rejecting any affirmative duty of the victim to resist.

We likewise reject Blenkhorn's contention that his judgment of conviction for gross sexual assault must be vacated because it is logically irreconcilable with his acquittal of simple assault (Class D), 17-A M.R.S. § 207(1)(A) (2005). Although we are unaware of a case in which we vacated a jury conviction because it was logically irreconcilable with an acquittal of another charge, *State v. Snow*, 513 A.2d 274, 277 (Me. 1986), because the acquittal in this case was for an act other than the gross sexual assault, the two outcomes are logically reconcilable.

The entry is:

Judgment affirmed.

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