

STATE OF MAINE

v.

DINA A. FRANCIS

Submitted on Briefs November 1, 2007
Decided November 27, 2007

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

MEMORANDUM OF DECISION

Dina A. Francis appeals from a judgment entered after a non-jury trial in the District Court (*Calais, Romei, J.*) convicting her of assault (Class D), 17-A M.R.S. § 207(1)(A) (2006). She argues: (1) the State did not present sufficient evidence to disprove her claim of self-defense; and (2) her constitutional right to remain silent was violated when, without objection, the State presented evidence of her pre-arrest silence during its case-in-chief.

The evidence in the record, although disputed, must be construed most favorably to the State, and was sufficient to support the conviction. *See State v.*

Nugent, 2007 ME 44, ¶ 10, 917 A.2d 127, 130; *State v. McMahan*, 2000 ME 200, ¶ 13, 761 A.2d 50, 53. As it would have been apparent to the court that Francis would testify and the credibility of her explanation of the events would be at issue, any error in admitting evidence of her pre-arrest statement during the State's case-in-chief was not obvious error and did not affect her substantial rights. *See State v. Snow*, 2007 ME 26, ¶ 11, 916 A.2d 957, 961; *State v. Barnes*, 2004 ME 105, ¶ 5, 854 A.2d 208, 209-10.

The entry is:

Judgment affirmed.

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