

STATE OF MAINE

v.

MISTY D. THURLOW

Submitted on Briefs July 8, 2009
Decided July 14, 2009

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

MEMORANDUM OF DECISION

Misty D. Thurlow appeals from a judgment of conviction entered in Superior Court (Franklin County, *Murphy, J.*) after a jury found her guilty of assault (Class C), 17-A M.R.S. § 207(1)(A) (2008). Contrary to Thurlow's contention, the court did not commit clear error or abuse its discretion in admitting certain photographs that depicted the victim's injuries. *See State v. Roberts*, 2008 ME 112, ¶¶ 21, 28, 951 A.2d 803, 810-11, 812 (explaining our review of a trial court's decision to admit photographs). Additionally, the court did not commit reversible error in admitting alleged hearsay statements during the testimony of the victim and a state trooper. *See State v. White*, 2002 ME 122, ¶¶ 13, 16, 804 A.2d 1146, 1150 (stating that this Court reviews challenges to the admission of alleged hearsay statements de novo as a question of law and for harmless error if the objection is preserved); *State v. Eaton*, 669 A.2d 146, 149 (Me. 1995) (stating that this Court reviews unpreserved objections for obvious error). Last, the court did not err in permitting the State, during its opening statement, to repeat something said to the victim. The victim later testified regarding this statement, which was not hearsay because it was not offered for the truth of the matter asserted. *See State v. Ammerman*, 586 A.2d 1244, 1245 (Me. 1991) (explaining that proper opening statements may refer to facts the proponent believes in good faith will be offered and admitted at trial); M.R. Evid. 801(c) (defining hearsay as a "statement,

other than one made by the declarant while testifying at trial, offered in evidence *to prove the truth of the matter asserted*") (emphasis added).

The entry is:

Judgment affirmed.

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