

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

UNPUBLISHED
October 10, 2013

v

CHRISTOPHER MICHAEL MILJOUR,

Defendant-Appellant.

No. 310433
Menominee Circuit Court
LC No. 11-003429-FH

Before: RIORDAN, P.J., and MARKEY and K. F. KELLY, JJ.

PER CURIAM.

Defendant appeals as of right from his jury trial conviction of domestic violence, MCL 750.81(2). We affirm.

I. BASIC FACTS AND PROCEDURAL HISTORY

Defendant lived with Aronaka Tahash and Dale Sulk at Tahash's house. Defendant and Tahash had a "stormy" relationship. On the day of the incident, defendant, Tahash, and Sulk were intoxicated. Defendant became verbally abusive with Tahash because she overcooked his steak dinner. Defendant left the table and began to head-butt a framed photograph on the wall. After Tahash approached defendant, he "flipped" and struck Tahash with the back of his hand, knocking her to the floor. Defendant grabbed Tahash and threw her into the table. Tahash testified that she eventually ended up in the fetal position while defendant held her down and punched her 7 to 10 times in the head. Sulk intervened and called the police.

Defendant told the police that he was just "goofing around" with Tahash and said, "[T]here's no victim." Defendant had a small laceration on his head, but Tahash's face was red and her eyes were swollen. Defendant testified that he did not remember the incident because he took aspirin earlier that day for a toothache and consumed three to four alcoholic drinks. Defendant expressly denied any domestic abuse.

At trial, before the parties rested, the trial court verified with the parties that neither was objecting to the jury instructions. Defense counsel confirmed. The proposed instructions did not include a self-defense jury instruction. After the parties rested, the trial court again confirmed with the parties that they were satisfied with the jury instructions. Finally, defense counsel indicated that there were no objections to the jury instructions after they were given to the jury.

II. ANALYSIS

On appeal, defendant argues that he was entitled to a self-defense jury instruction. However, defense counsel affirmatively expressed satisfaction with the jury instructions before and after the trial court instructed the jury. Defense counsel also expressly indicated to the trial court that any requested jury instructions by defendant were given to the jury. Therefore, defendant waived any error with the jury instructions. See *People v Carter*, 462 Mich 206, 215-216; 612 NW2d 144 (2000); *People v Ortiz*, 249 Mich App 297, 311; 642 NW2d 417 (2001). Even if defendant did not waive any potential error, defendant's claim lacks merit. There was no evidence that defendant reasonably believed his life was in imminent danger and that he used force to defend himself. See *People v Dupree*, 286 Mich 692, 707; 788 NW2d 399 (2010) (the common law affirmative defense of self-defense justifies otherwise punishable criminal conduct if (1) the defendant honestly and reasonably believes his life is in imminent danger or that there is a threat of serious bodily harm; and (2) that it is necessary to exercise deadly force to prevent such harm to himself).

Affirmed.

/s/ Michael J. Riordan

/s/ Jane E. Markey

/s/ Kirsten Frank Kelly