

No. 05-137

IN THE SUPREME COURT OF THE STATE OF MONTANA

2005 MT 312N

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STATE OF MONTANA,

Plaintiff and Respondent,

v.

BRAD ALLEN SAUTER,

Defendant and Appellant.

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APPEAL FROM: District Court of the First Judicial District,  
In and For the County of Lewis and Clark, Cause No. ADC 2004-145  
Honorable Dorothy McCarter, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Jon G. Moog, Assistant Public Defender, Helena, Montana

For Respondent:

Hon. Mike McGrath, Attorney General; Tammy K. Plubell,  
Assistant Attorney General, Helena, Montana

Leo Gallagher, Lewis and Clark County Attorney; Mike Menahan,  
Deputy County Attorney, Helena, Montana

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Submitted on Briefs: November 30, 2005

Decided: December 12, 2005

Filed:

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Clerk

Chief Justice Karla M. Gray delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(d)(v), Montana Supreme Court 1996 Internal Operating Rules, as amended in 2003, the following memorandum decision shall not be cited as precedent. Its case title, Supreme Court cause number and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 Brad Allen Sauter was convicted of partner or family member assault after a jury trial in the First Judicial District Court, Lewis and Clark County. Sauter appeals, arguing that the evidence presented at trial was insufficient to support the verdict.

¶3 We have determined to decide this case pursuant to Section 1, Paragraph 3(d) of our 1996 Internal Operating Rules, as amended in 2003, which provides for memorandum opinions. It is manifest on the face of the record that the appeal is without merit because the issue is factual and, when viewed in the light most favorable to the prosecution, the evidence was sufficient to allow a rational trier of fact to find the essential elements of partner or family member assault beyond a reasonable doubt. *See State v. LaMere*, 2003 MT 49, ¶ 13, 314 Mont. 326, ¶ 13, 67 P.3d 192, ¶ 13 (citation omitted).

¶4 Affirmed.

/S/ KARLA M. GRAY

We concur:

/S/ JAMES C. NELSON  
/S/ PATRICIA O. COTTER  
/S/ W. WILLIAM LEAPHART  
/S/ BRIAN MORRIS