

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

2026 ND 41

State of North Dakota,

Plaintiff and Appellee

v.

Alex Kenny Eggleston,

Defendant and Appellant

No. 20250291

Appeal from the District Court of Burleigh County, South Central Judicial District, the Honorable James S. Hill, Judge.

AFFIRMED.

Per Curiam.

Gabrielle J. Goter, Senior Assistant State's Attorney, and Shaun H. Peterson, Assistant State's Attorney, Bismarck, N.D., for plaintiff and appellee; on brief.

Kiara C. Kraus-Parr, Grand Forks, N.D., for defendant and appellant; on brief.

State v. Eggleston
No. 20250291

Per Curiam.

[¶1] Alex Kenny Eggleston appeals from a criminal judgment entered after a jury found him guilty of simple assault on a correctional officer under N.D.C.C. § 12.1-17-01(1)(a). He argues the district court committed obvious error by failing to instruct the jury that it must unanimously agree on the specific act that caused bodily injury to the victim. He also argues the prosecution presented insufficient evidence to support his conviction.

[¶2] At trial, after closing arguments but before the instructions were given to the jury, the district court asked defense counsel whether he had any objections:

THE COURT: And Mr. Kelsch . . . any objections or exceptions to the closing instructions?

MR. KELSCH: No, Your Honor.

Eggleston waived his claim of error in the jury instructions. *State v. Vervalen*, 2024 ND 124, ¶ 8, 8 N.W.3d 816. Obvious error review does not apply to waived errors. *Id.* “A defendant challenging the sufficiency of the evidence on appeal must show that the evidence, when viewed in the light most favorable to the verdict, reveals no reasonable inference of guilt.” *State v. Mohammed*, 2020 ND 52, ¶ 5, 939 N.W.2d 498. We conclude from our review of the record that there was sufficient evidence to support the guilty verdict. We summarily affirm under N.D.R.App.P. 35.1(a)(3) and (7).

[¶3] Lisa Fair McEvers, C.J.

Jerod E. Tufte

Jon J. Jensen

Douglas A. Bahr

Donovan J. Foughty, S.J.

[¶4] The Honorable Donovan J. Foughty, Surrogate Judge, sitting in place of Crothers, J., disqualified.