

*State v. Pjura*

serious physical injury in an effort to facilitate his escape; the punch caused a life-threatening injury, as it fractured H's skull in multiple places, rendered him unconscious and was heard by D fifteen to twenty feet away, and, although the defendant claimed that his intent was not to cause serious injury but to escape, he testified that he could have shoved H in the chest, punched him in the stomach, tripped him or tried running away rather than engaging in physical contact with H.

2. The defendant could not prevail on his claim that he was denied his right to a fair trial as a result of prosecutorial impropriety, as none of the challenged remarks was improper:

a. The prosecutor did not place evidence of the defendant's postarrest silence before the jury in violation of the trial court's orders, as the prosecutor asked C, a police detective, only about the defendant's conduct in response to C's request to photograph the defendant's hands during his detention by the police, the record was insufficient to determine if the prosecutor intended to elicit improper evidence as to postarrest silence, the question was open-ended, the type of evidence the prosecutor attempted to elicit was ambiguous, the court issued no formal ruling on a motion the defendant had filed to preclude evidence of his postarrest silence and instructed the jury that questions by the attorneys were not evidence; moreover, the prosecutor had a proper motive for asking the defendant on cross-examination if he felt remorse about the incident with H, as defense counsel's questions to the defendant on direct examination opened the door for the prosecutor's follow-up questions, and the prosecutor had a good faith basis to ask the defendant additional questions on recross-examination about his remorse, as the court previously had permitted the prosecutor on cross-examination to impeach the defendant's credibility as to his purported remorse.

b. The prosecutor invited the jury to draw reasonable inferences from the evidence and did not argue facts not in evidence during closing argument about the defendant's intent to cause H serious injury, as defense counsel did not object to the prosecutor's arguments, the defendant's testimony that he could have taken other action to get away and avoid arrest instead of punching H in the head supported the prosecutor's arguments, the prosecutor's arguments as to the defendant's motivation for shopping at H's store were not presented to the jury as facts but, instead, as a submission of a reasonable inferences the jury could draw from the facts and evidence, and the prosecutor's argument about the differing accounts of the incident by H and the defendant merely asked the jury to make a credibility determination.

c. The prosecutor did not frame his statements to the jury by suggesting that it would need to find that R and D lied about the location of the defendant's punch in order to find the defendant not guilty: the prosecutor's statements, to which defense counsel did not object, asked the jury to weigh the credibility of each witness and did not force the jury to find the defendant not guilty only if first concluded that R and

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D had lied; moreover, even if R and D had lied, the jury could have found the defendant guilty on the basis of his testimony alone that he punched H in the head.

*(One judge concurring separately)*

Argued May 22—officially released October 20, 2020

*Procedural History*

Substitute information charging the defendant with one count each of the crimes of robbery in the first degree and assault in the second degree, brought to the Superior Court in the judicial district of Litchfield at Torrington and tried to the jury before *Danaher, J.*; verdict and judgment of guilty of assault in the second degree and the lesser included offense of larceny in the sixth degree, from which the defendant appealed to this court. *Affirmed.*

*MarcAnthony Bonanno*, with whom, on the brief, was *James B. Streeto*, senior assistant public defender, for the appellant (defendant).

*Brett R. Aiello*, special deputy assistant state's attorney, with whom, on the brief, were *Dawn Gallo*, state's attorney, and *David R. Shannon*, senior assistant state's attorney, for the appellee (state).

*Opinion*

PRESCOTT, J. The defendant, John Pjura, appeals from the judgment of conviction, rendered after a jury trial, of one count of assault in the second degree in violation of General Statutes § 53a-60 (a) (1) and one count of larceny in the sixth degree in violation of General Statutes § 53a-125b. The defendant claims on appeal (1) that there was insufficient evidence to prove beyond a reasonable doubt that he intended to cause serious physical injury to the victim, and (2) that he was denied his right to a fair trial because the prosecutor committed improprieties during the trial by (a) attempting to place evidence of the defendant's postarrest silence