

STATE OF MAINE

v.

AMANDA M. ALWARD

Argued June 11, 2019  
Decided June 18, 2019

Panel: SAUFLEY, C.J., and ALEXANDER, MEAD, GORMAN, JABAR, HJELM, and HUMPHREY, JJ.

MEMORANDUM OF DECISION

Amanda M. Alward appeals from a judgment of conviction entered by the court (Aroostook County, *Stewart, J.*) after a jury found her guilty of domestic violence assault (Class D), 17-A M.R.S. § 207-A(1)(A) (2018), and aggravated assault (Class B), 17-A M.R.S. § 208(1)(B) (2018). Alward contends that the trial court committed obvious error in its jury instructions on self-defense.

Contrary to Alward's contentions, we discern no error—let alone obvious error—in the fact that the trial court did not *sua sponte* define the terms “provoked” and “initial aggressor” in its instructions to the jury. The trial court's instructions accurately stated the law as it is provided in 17-A M.R.S. § 108 (2018) and that law does not attach any specific meaning to the terms. Because the terms are in common and ordinary use, we presume the jury reasonably understood the common sense meaning of them. *See State v. Smith*, 618 A.2d 208, 210 (Me. 1992); *State v. Griffin*, 487 A.2d 247, 249 (Me. 1984); *State v. O'Connell*, 99 Me. 61, 64-65, 58 A. 59 (1904).

We are similarly unpersuaded by Alward's argument that the court erred by including provocation instructions as part of its self-defense instructions to the jury. *See* 17-A M.R.S. § 108(1)(A), (2)(C)(1). There was evidence presented of provocative words and acts by Alward directed at the victim and the jury reasonably could have inferred that she intended to provoke the victim into using force as a pretext to use force against him. *See State v. True*, 2017 ME 2, ¶ 19, 153 A.3d 106 ("The jury is permitted to draw all reasonable inferences from the evidence and is free to selectively accept or reject testimony presented based on the credibility of the witness or the internal cogency of the content.").

The entry is:

Judgment affirmed.

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Jamesa J. Drake, Esq (orally), Drake Law, LLC, Auburn, for appellant Amanda M. Alward

John M. Pluto, Asst. Dist. Atty. (orally), Prosecutorial District No. 8, Caribou, for appellee State of Maine