

STATE OF MAINE

v.

MARK D. PENLEY

Submitted on Briefs January 24, 2024  
Decided February 1, 2024

Panel: MEAD, CONNORS, LAWRENCE, and DOUGLAS, JJ.

MEMORANDUM OF DECISION

Mark D. Penley was convicted of two counts of intentional or knowing murder, 17-A M.R.S. § 201(1)(A) (2018).<sup>1</sup> The trial court (Oxford County, *Warren, J.*) held a sentencing hearing and imposed two concurrent life sentences. Penley appealed, and we vacated his sentences because the court improperly relied on evidence of a “history of domestic violence” when setting the basic term of imprisonment in the first step of the sentencing analysis. *See State v. Penley*, 2023 ME 7, ¶¶ 35-36, 288 A.3d 1183; 17-A M.R.S. § 1252-C(1) (2018). On remand, the court (*Warren, A.R.J.*) held another sentencing hearing and again imposed two concurrent life sentences.

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<sup>1</sup> Because of statutory amendments enacted since the relevant time, *see, e.g.*, P.L. 2019, ch. 462, § 3 (effective Sept. 19, 2019) (codified at 17-A M.R.S. § 201(4) (2023)); P.L. 2019, ch. 113, §§ A-1, A-2 (emergency, effective May 16, 2019) (repealing and replacing sentencing statutes), this opinion cites the substantive statutes, including the statutes governing the imposition of the sentences, that were in effect at the time of the victims’ deaths in January 2019. *See State v. Hardy*, 489 A.2d 508, 512 (Me. 1985) (holding that “the wrongdoer must be punished pursuant to the law in effect at the time of the offense”).

Penley appeals, arguing that the court abused its discretion when it set the maximum period of imprisonment in the second step of the sentencing analysis. *See* 17-A M.R.S. § 1252-C(2). We disagree because the record indicates that the court appropriately weighed relevant aggravating and mitigating factors. *See State v. Koehler*, 2012 ME 93, ¶¶ 32, 35, 46 A.3d 1134; *State v. Schofield*, 2006 ME 101, ¶ 13, 904 A.2d 409; *State v. Waterman*, 2010 ME 45, ¶ 49, 995 A.2d 243.

The entry is:

Judgment affirmed.

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Office of the Attorney General, Augusta, for appellee State of Maine