

STATE OF MAINE

v.

MALCOLM D. ROBINSON II

Submitted on Briefs December 13, 2002
Decided December 18, 2002

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, ALEXANDER,
CALKINS, and LEVY, JJ.

MEMORANDUM OF DECISION

Malcolm Robinson II appeals from a conviction in Superior Court (Knox County, *Humphrey, J.*) on one count of intentional or knowing murder, in violation of 17-A M.R.S.A. § 201(1)(A) (1983), and one count of criminal threatening with a dangerous weapon, Class C, in violation of 17-A M.R.S.A. §§ 209 & 1252(4) (1983). Robinson argues that the Superior Court erred when it (1) admitted testimony regarding a domestic dispute that occurred between Robinson and his wife, and (2) failed to instruct the jury as to the affirmative defense of adequate provocation pursuant to 17-A M.R.S.A. § 201(3) (Supp. 2001).

The evidence of the prior domestic dispute was relevant to the issue of Robinson's *mens rea*, and the trial court correctly determined that no issue of provocation by the victim, who had been intimate with Robinson's wife, was raised by the evidence. *See State v. Pulsifer*, 1999 ME 24, ¶ 13, 724 A.2d 1234, 1237.

The entry is:

Judgment affirmed.

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(Attorney Peterson was permitted to withdraw after filing a brief on defendant's behalf.)