

STATE OF MAINE

v.

MICHAEL W. LEWIS

Submitted on Briefs January 23, 2003
Decided August 14, 2003

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

MEMORANDUM OF DECISION

Michael W. Lewis appeals from the judgment of the Superior Court (Waldo County, *Marden, J.*) following a jury trial in which he was found guilty of operating a vehicle in violation of the habitual offender law (Class C), 29-A M.R.S.A. § 2557 (1996 & Supp. 2002). Lewis contends that the court erred in excluding, as hearsay, proposed testimony by Lewis and a friend regarding statements they allege were made by a former girlfriend of Lewis's who was unavailable to testify. The statements were offered seeking to generate a competing harms justification, 17-A M.R.S.A. § 103(1) (1983), for Lewis's

operation of the motor vehicle. Because the proffered statements and other evidence failed to demonstrate that Lewis had no reasonable alternative to driving, they were insufficient to generate the competing harms justification. *State v. Case*, 672 A.2d 586, 589 (Me. 1996).

The entry is:

Judgment affirmed.

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