

STATE OF MAINE

v.

GARY ELWELL

Submitted on Briefs May 29, 2003  
Decided June 23, 2003

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

MEMORANDUM OF DECISION

Gary Elwell appeals judgments of conviction for (1) criminal threatening with a dangerous weapon (Class C) in violation of 17-A M.R.S.A. § 209(1) (1983), and (2) reckless conduct with a dangerous weapon (Class C) in violation of 17-A M.R.S.A. § 211(1) (1983), following a jury trial in the Superior Court (Kennebec County, *Marden, J.*). Contrary to Elwell's contentions, (1) the Superior Court acted within its discretion when it allowed the victim to briefly refer to certain aspects of her prior relationship with Elwell, *see State v. Smith*, 612 A.2d 231, 235 (Me. 1992) ("Absent a stipulation by [defendant] that the victim had submitted to the charged offense as a result of compulsion, the State is entitled to present

evidence of both force and fear.”); (2) the Superior Court acted within its discretion in allowing the victim’s daughter to testify briefly in rebuttal about Elwell’s propensity for threatening behavior, *see State v. Berry*, 495 A.2d 1207, 1209-10 (Me. 1985) (“To give evidence the character of rebuttal, it is not essential ‘that the contradiction should be complete and entire . . . [but] it is only necessary that the testimony offered should have a tendency to explain, repel, counteract, or disprove the opposite statement . . . [.]’”) (internal citation omitted); (3) the evidence was sufficient to sustain the verdict, *see State v. Walker*, 506 A.2d 1143, 1149 (Me. 1986) (noting a victim’s uncorroborated testimony may support a verdict unless it is “contradictory, unreasonable, or incredible”); and (4) pursuant to M.R. Evid. 403, the court acted within its discretion when it excluded from evidence a letter from the victim to the editor of the *Kennebec Journal*, written after we vacated Elwell’s previous convictions on appeal and remanded for a new trial, *see State v. Elwell*, 2002 ME 60, ¶ 14, 793 A.2d 499, 503.

The entry is:

Judgments affirmed.

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