

STATE OF MAINE

v.

GREGORY McLEOD

Submitted on Briefs February 26, 2004  
Decided March 19, 2004

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

MEMORANDUM OF DECISION

Gregory McLeod appeals from a judgment of conviction entered in the Superior Court (Cumberland County, *Fritzsche, J.*) for assault (Class C), 17-A M.R.S.A. §§ 207, 1252(4-A) (Supp. 2000) (current versions at 17-A M.R.S.A. §§ 207, 1252(4-A) (Supp. 2003)), and an order denying a new trial. Contrary to McLeod's contentions, the victim's excited utterances and her physical condition following the assault, as established by the testimony of witnesses other than the victim, constituted sufficient evidence to support the conviction. *See State v. Robinson*, 2001 ME 83, ¶¶ 19-21, 773 A.2d 445, 451-52; *State v. Stinson*, 2000

ME 87, ¶ 6, 751 A.2d 1011, 1014. Furthermore, the court acted within its discretion by denying the motion for a new trial based on its conclusion that the victim's postconviction recantation was incredible and unreliable. *See State v. Cookson*, 2003 ME 136, ¶¶ 28-29, 837 A.2d 101, 110.

The entry is:

Judgment affirmed.

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Attorneys for State:

Stephanie Anderson, District Attorney  
Julia Sheridan, Asst. Dist. Atty.  
142 Federal Street  
Portland, ME 04101

Attorney for defendant:

Clifford B. Strike, Esq.  
Strike, Goodwin & O'Brien  
400 Allen Avenue  
Portland, ME 04103-3715