

STATE OF MAINE

v.

PETER TULLER

Argued January 14, 2009

Decided May 19, 2009

Panel: SAUFLEY, C.J., and CLIFFORD, ALEXANDER, LEVY, SILVER, and GORMAN, JJ.

MEMORANDUM OF DECISION

Peter Tuller appeals from a judgment convicting him of murder, 17-A M.R.S. § 201(1)(A) (2008), and imposing a life sentence entered after a jury trial in the Superior Court (Penobscot County, *Jabar, J.*).

Contrary to Tuller's arguments, 17-A M.R.S. § 1251 (2008) establishes a unitary sentencing range for murder, ranging from twenty-five years to life in prison. *See State v. Gauthier*, 2007 ME 156, ¶ 29, 939 A.2d 77, 84 (noting that a life sentence is the statutory maximum for sentencing purposes). Although our decision in *State v. Shortsleeves*, 580 A.2d 145, 149-50 (Me. 1990), "provides a guideline for placing the particular murder along a continuum of criminal conduct," *State v. Bates*, 2003 ME 67, ¶ 26, 822 A.2d 1129, 1135, such guidance does not entitle Tuller to a jury trial on the existence of any of the so-called *Shortsleeves* aggravating factors when a judge considers whether to set the basic sentence at life in prison, *see State v. Hutchinson*, 2009 ME 44, --- A.2d ---.

Further, the court did not misapply principle in setting Tuller's basic sentence at life in prison based on a finding of extreme cruelty. *See State v. Wilson*, 669 A.2d 766, 768 (Me. 1996). The circumstances of this case, in which the victim was so severely beaten that his lung collapsed and was hogtied, support the court's finding of extreme cruelty. *See Shortsleeves*, 580 A.2d at 150.

The entry is:

Judgment and sentence affirmed.

Attorney for Peter Tuller:

Verne Paradie, Jr., Esq. (orally)
Trafton & Matzen
PO Box 470
Auburn, Maine 04212-0470

Attorneys for the State of Maine:

G. Steven Rowe, Attorney General
Andrew W. Benson, Asst. Atty. Gen.
Donald W. Macomber, Asst. Atty. Gen. (orally)
6 State House Station
Augusta, Maine 04333