

STATE OF MAINE

v.

DEAN DOUGLAS

Submitted on Briefs September 14, 2000
Decided September 27, 2000

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

MEMORANDUM OF DECISION

Dean Douglas appeals from the judgment entered in the Superior Court (Penobscot County, *Studstrup, J.*) following a jury verdict finding him guilty of reckless conduct with a dangerous weapon (Class C) in violation of 17-A M.R.S.A. § 211, and criminal trespass (Class D) in violation of 17-A M.R.S.A. § 402.¹ On appeal, Douglas contends that the court erred when it denied his motion for a mistrial based on alleged juror misconduct in reacting to obscenities heard on a tape played as part of the evidence in the case. The trial court conducted an appropriate individual inquiry of the jury and excused two jurors whose impartiality was of concern. The court did not abuse its discretion in continuing the trial with the remaining jurors.

1. Douglas was sentenced to three years imprisonment for reckless conduct with a dangerous weapon and to three months for criminal trespass. The two terms are to be served concurrently with all but eighteen months suspended, followed by a four-year period of probation.

See State v. Gilman, 637 A.2d 1180, 1182 (Me. 1994). *See also United States v. McHorse*, 179 F.3d 889, 904 (10th Cir. 1999).

The entry is:

Judgment affirmed.

Attorneys for State:

R. Christopher Almy, District Attorney
C. Daniel Wood, Asst. Dist. Atty.
97 Hammond Street
Bangor, ME 04401

Attorney for defendant:

David E. Gray, Esq.
C.W. & H.M. Hayes
P O Box 189
Dover-Foxcroft, ME 04426-0189