

SUMMARY STATEMENT

State v. McDermott

Docket No. 47642

This is an appeal from Michael McDermott's conviction for second-degree murder. McDermott arrived at his ex-girlfriend's home late at night in the hopes of obtaining methamphetamine. After finding another man, Robert Waholi, inside the ex-girlfriend's recreational vehicle ("RV"), McDermott slammed his ex-girlfriend's head twice in her front door, causing her to fall. McDermott stepped away from the RV and then, a few moments later, Waholi came out carrying a large double-edged axe. McDermott shot Waholi through the heart, killing him. McDermott eventually confessed to the police that he had killed Waholi; however, he claimed he was acting in self-defense.

At trial, the district court instructed the jury on McDermott's self-defense theory, including an instruction that the jury could not find McDermott acted in self-defense if it found that McDermott was the "initial aggressor" in the altercation with Waholi. McDermott objected both to the "initial aggressor" instruction itself as well as the wording of the instruction. The district court also instructed the jury using Idaho Criminal Jury Instruction 702 on "malice," the requisite intent needed for second-degree murder. During its deliberations, the jury asked for clarification on the meaning of malice, which the district court provided over McDermott's objection. The jury ultimately found McDermott guilty of second degree-murder.

The Idaho Supreme Court held that the district court erroneously instructed the jury on the concept of malice and that this instruction was not harmless. The Court further held that McDermott had failed to establish that the district court had erroneously instructed the jury on the concept of an initial aggressor; however, because McDermott was entitled to a new trial on the basis of the erroneous malice instruction, the Court provided a corrected initial aggressor instruction for use on remand. As a result of the error occurring during the trial, the Idaho Supreme Court vacated McDermott's conviction and remanded the case for a new trial.

******This summary constitutes no part of the Court's opinion. It has been prepared by court staff for the convenience of the public.******