

the exact nature of the problem, he ran the heater only for a short time. The fact that defendant checked the exhaust cylinders before and after using the heater reasonably implied that defendant was himself wary of using the machine. State v. Brooks (1995) 163 Vt. 245, 658 A.2d 22.

11. Sentencing. State's argument at sentencing did not go beyond bounds of a voluntary manslaughter charge, since fact that victim may have fallen asleep did not necessarily signify passage of a substantial amount of time, and State did not argue that defendant had "cooled off" after victim assaulted him. State v. Roy (1999) 169 Vt. 611, 738 A.2d 581 (mem.).

Cited. Cited in State v. Beayon (1992) 158 Vt. 133, 605 A.2d 527; State v. Shabazz (1999) 169 Vt. 448, 739 A.2d 666; State v. King, 2006 VT 18, 179 Vt. 400, 897 A.2d 543.

§ 2305. Justifiable homicide

If a person kills or wounds another under any of the circumstances enumerated below, he or she shall be guiltless:

(1) in the just and necessary defense of his or her own life or the life of his or her husband, wife, parent, child, brother, sister, master, mistress, servant, guardian, or ward; or

(2) in the suppression of a person attempting to commit murder, sexual assault, aggravated sexual assault, burglary, or robbery, with force or violence; or

(3) in the case of a civil officer; or a military officer or private soldier when lawfully called out to suppress riot or rebellion, or to prevent or suppress invasion, or to assist in serving legal process, in suppressing opposition against him or her in the just and necessary discharge of his or her duty.

Historical Citation

Amended 1983, No. 23, § 2.

HISTORY

Source. V.S. 1947, § 8245. P.L. § 8379. G.L. § 6803. P.S. § 5698. V.S. § 4889. R.L. § 4001.