

STATE OF MAINE

v.

KERRY ANDERSON

Submitted on Briefs March 29, 2000  
Decided May 17, 2000

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

MEMORANDUM OF DECISION

Kerry Anderson appeals from a judgment entered in the Superior Court (Cumberland County, *Cole, J.*) following a jury verdict convicting him of operating a motor vehicle while under the influence of intoxicants in violation of 29-A M.R.S.A. § 2411. On appeal, Anderson claims that prosecutorial misconduct during summation deprived him of his right to a fair trial and thus requires reversal. We review Anderson's contentions for obvious error. *See State v. Winchenbach*, 658 A.2d 1083, 1085 (Me. 1995). In the present case, Anderson's objection to the prosecutor's comment was sustained, and the court gave a curative instruction.<sup>1</sup> In this context, we cannot say that the error was "so highly prejudicial and so taints the proceedings as virtually to deprive [Anderson] of a fair trial." *State v.*

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1. Although Anderson objected to the prosecutor's statement, he did not object to the court's curative instruction or move for a mistrial.

*Pelletier*, 673 A.2d 1327, 1330 (Me. 1996); *State v. Reilly*, 446 A.2d 1125, 1129 (Me. 1982) (“Prompt and appropriate curative instructions, under some circumstances, may well alleviate the damage caused by [prosecutorial mis]conduct.”).

The entry is:

Judgment affirmed.

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