

STATE OF MAINE

v.

MICHAEL R. CHAPMAN

Submitted on Briefs December 20, 2001
Decided January 16, 2002

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

MEMORANDUM OF DECISION

Michael Chapman appeals from a judgment of conviction entered in the Superior Court (Franklin County, *Marden, J.*) upon a jury verdict finding him guilty of gross sexual assault, Class A, *see* 17-A M.R.S.A. § 253(1)(A) (Supp. 2001), and assault, Class D, *see* 17-A M.R.S.A. § 207 (1983 & Supp. 2001). Contrary to Chapman's contentions, (1) the court did not abuse its discretion in denying his motion for a new trial on grounds of newly discovered evidence, *see State v. Sheldon*, 2000 ME 193, ¶ 7, 760 A.2d 1083, 1084-85; *State v. Ardolino*, 1999 ME 14, ¶ 8, 723 A.2d 870, 873; (2) any impropriety that may have been contained in a brief comment by the prosecutor was cured by the court's subsequent curative instruction, *see State v. Lyons*, 1998 ME 225, ¶ 5, 718 A.2d 1102, 1105; (3) the court

committed no obvious error in failing to instruct on the defense of consent, *see* 17-A M.R.S.A. § 109 (1983); *State v. Begin*, 652 A.2d 102, 106 (Me. 1995); and (4) sufficient evidence exists in the record to support the jury's findings beyond a reasonable doubt, *see State v. Hayes*, 675 A.2d 106, 109 (Me. 1996). We do not consider Chapman's contention that he was improperly sentenced in light of our previous denial of Chapman's sentence review application. *See State v. Frechette*, 687 A.2d 628, 629 (Me. 1996).

The entry is:

Judgment affirmed.

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