

STATE OF MAINE

v.

WILLIAM R. BENSON

Argued April 11, 2003
Decided April 29, 2003

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

MEMORANDUM OF DECISION

William R. Benson appeals from the judgment entered in the Superior Court (Piscataquis County, *Jabar, J.*) following a jury trial in which he was found guilty of five counts of gross sexual assault (Class A) against a person who had not, in fact, attained the age of fourteen years, in violation of 17-A M.R.S.A. § 253(1)(B) (Supp. 2002). Contrary to Benson's contentions, the court did not exceed the bounds of its discretion when it permitted testimony regarding Benson's uncharged sexual contact with the victim. *See State v. DeLong*, 505 A.2d 803, 805 (Me. 1986). Nor did the court err in limiting evidence regarding the victim's sexual history, *see* M.R. Evid. 412; *State v. Warren*, 1998 ME 136, ¶ 9, 711 A.2d 851,

855, or in concluding that the tender years exception did not apply to the proffered evidence, *see State v. Howe*, 2001 ME 181, ¶ 13, 788 A.2d 161, 164 (concluding that the exception articulated in *State v. Jacques*, 558 A.2d 706, 708 (Me. 1989) applies only to rebut an inference of naiveté). Finally, the court did not exceed the bounds of its discretion when it denied Benson's motion for mistrial related to the recent disclosure of information that would not have been admissible at trial. *State v. Sanborn*, 644 A.2d 475, 479 (Me. 1994).

The entry is:

Judgment affirmed.

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