

STATE OF MAINE

v.

RICHARD WING

Submitted on Briefs July 9, 2004

Decided July 23, 2004

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

MEMORANDUM OF DECISION

Richard Wing appeals from the judgment following his conviction for unlawful sexual contact (Class C) in violation of 17-A M.R.S.A. § 255(1)(C) (Supp. 1992)¹ entered in the Superior Court (Androscoggin County, *Delahanty, J.*) after a jury trial. We disagree with each of Wing's six contentions. First, the indictment, which incorporated "on or about" language, sufficiently alleged a crime within the statute of limitations period. *Cf. State v. Greene*, 512 A.2d 330, 333-34 (Me. 1986) (explaining that "on or about" language is sufficiently specific to allow the defendant to prepare a defense and to protect the defendant from

¹ Title 17-A M.R.S.A. § 255 has since been amended by P.L. 2001, ch. 383, § 23 (effective Jan. 31, 2003), *codified at* 17-A M.R.S.A. § 255-A (Supp. 2003)).

double jeopardy, when the date of the offense is not an element of the offense). Second, the court did not err in admitting evidence of prior bad acts, which were relevant to Wing's motive and intent, nor did it exceed its discretion in determining that the number of prior bad acts was not unduly prejudicial. *See State v. Turner*, 2001 ME 44, ¶ 5, 766 A.2d 1025, 1027. Third, the court did not commit obvious error by not providing a limiting instruction concerning the evidence of Wing's conduct that occurred after the victim turned fourteen years old. *See State v. Roman*, 622 A.2d 96, 99 (Me. 1993). Fourth, the court properly instructed the jury that the State had the burden of proving that the conduct occurred within the statute of limitations. *See Alexander, Maine Jury Instruction Manual* § 6-28 at 6-41 (4th ed. 2003). Fifth, the court did not abuse its discretion in reading back selected testimony to the jury. *See State v. Engstrom*, 453 A.2d 1170, 1173 (Me. 1982). Sixth, the evidence was sufficient to support his conviction. *See State v. Ardolino*, 1997 ME 141, ¶ 20, 697 A.2d 73, 80.

The entry is:

Judgment affirmed.

Attorney for State:

Norman R. Croteau, District Attorney
Deborah Potter Cashman, Asst. Dist. Atty.
2 Turner Street
Auburn, ME 04210

Attorney for defendant:

E. Chris L. Hommedieu, Esq.
54 Pine Street
Lewiston, ME 04240