

STATE OF MAINE

v.

ROBERT KALEX

Submitted on Briefs February 3, 2005
Decided February 28, 2005

Panel: CLIFFORD, RUDMAN, DANA, ALEXANDER, and CALKINS, JJ.

MEMORANDUM OF DECISION

Robert Kalex appeals from a judgment of conviction entered in Superior Court (York County, *Atwood, J.*) for violating a permanent injunction (Class D) pursuant to the Maine Civil Rights Act, 5 M.R.S.A. § 4681(6) (2002), following a jury trial. During cross-examination of the victim by Kalex's attorney, the victim referred to the manner in which Kalex speaks. Because that testimony could not reasonably be understood as a comment on Kalex's failure to testify, the court did not act beyond its discretion in failing either to grant a mistrial or to provide a curative instruction, *see State v. Bridges*, 2004 ME 102, ¶ 10, 854 A.2d 855, 858; *State v. Pineau*, 463 A.2d 779, 781 (Me. 1983). Moreover, the court did not err in

admitting evidence including a court docket entry, noting that the prior default judgment was served on Kalex, and which in turn gave Kalex notice of the terms of the injunction that he was charged with violating, *see State v. Small*, 2003 ME 107, ¶ 23, 830 A.2d 423, 428; *Vargelis v. Minieri*, 620 A.2d 275, 276 (Me. 1993); *see also* M.R. Evid. 902; 16 M.R.S.A. § 451 (1983). Lastly, the facts were sufficient to convict him of the offense, *see State v. Sweeney*, 2004 ME 123, ¶ 15, 861 A.2d 43, 46.

The entry is:

Judgment affirmed.

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