

STATE OF MAINE

v.

JOHANA P. READ

Submitted on Briefs February 27, 2006  
Decided March 9, 2006

Panel: CLIFFORD, DANA, ALEXANDER, CALKINS, LEVY, and SILVER, JJ.

MEMORANDUM OF DECISION

Johana P. Read appeals from a judgment of conviction for failing to report an accident (Class E), 29-A M.R.S. § 2251(8)(A) (2005), entered in the District Court (Ellsworth, *Staples, J.*) following a jury-waived trial. First, contrary to Read's contentions, the court did not err by objectively interpreting the definition of "reportable accident" in 29-A M.R.S. § 2251(1) (2005). *Cf. State v. Chabot*, 478 A.2d 1136, 1138 (Me. 1984) (holding that a statute requiring a fact to be "reasonably apparent" to an actor is measured by that actor's "objective manifestation" of that fact); *see also State v. Bushey*, 425 A.2d 1343, 1346-47 (Me. 1981) (construing "offensive physical contact" objectively). Second, contrary to

Read's argument, section 2251 is not unconstitutionally vague because "[p]eople of common intelligence" are not left to "guess" at the meaning of the statute. *See State v. Witham*, 2005 ME 79, ¶¶ 6-7, 876 A.2d 40, 42. Moreover, because there is no ambiguity in the statute, the rule of lenity does not apply. *See Muscarello v. United States*, 524 U.S. 125, 138 (1998). Finally, contrary to Read's contentions, when viewing the evidence in the light most favorable to the State, *see State v. Sweeney*, 2004 ME 123, ¶ 15, 861 A.2d 43, 46, there was sufficient evidence to allow the court to objectively determine that there was "apparent property damage of \$1,000 or more," thereby triggering Read's duty to report the accident, *see* 29-A M.R.S. § 2251(1).

The entry is:

Judgment affirmed.

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