

STATE OF MAINE

v.

KIRBY G. WILLIAMS

Submitted on Briefs February 28, 2008  
Decided April 1, 2008

Panel: CLIFFORD, ALEXANDER, LEVY, and GORMAN, JJ.

MEMORANDUM OF DECISION

Kirby G. Williams appeals from a judgment of conviction of eight counts of gross sexual misconduct (Class A), 17-A M.R.S.A. § 253(1)(B) (Supp. 1988),<sup>1</sup> and two counts of gross sexual assault, (Class B), 17-A M.R.S.A. § 253(2)(H) (Supp. 1990),<sup>2</sup> entered in the Superior Court (Penobscot County, *Warren, J.*) following a jury trial. Contrary to Williams's contention, the court did not abuse its discretion in denying his motion for a mistrial. *See State v. Krieger*, 2002 ME 139, ¶ 14, 803

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<sup>1</sup> Title 17-A M.R.S.A. § 253(1)(B) was repealed and replaced by P.L. 1989, ch. 401, Pt. A, § 4 (effective Sept. 30, 1989) and has since been amended by P.L. 2001, ch. 383, § 14 (effective Jan. 31, 2003) (codified at 17-A M.R.S. § 253(1)(B) (2007)).

<sup>2</sup> Title 17-A M.R.S.A. § 253(2)(H) has since been amended. P.L. 2001, ch. 383, § 16 (effective Jan. 31, 2003); P.L. 1993, ch. 687, § 1 (effective July 14, 1994) (codified at 17-A M.R.S. § 253(2)(H) (2007)).

A.2d 1026, 1030-31 (stating that we review a denial of a motion for a mistrial for an abuse of discretion, and that the “trial court’s determination of whether exposure to potentially prejudicial extraneous evidence would incurably taint the jury verdict or whether a curative instruction would adequately protect against consideration of the matter stands unless clearly erroneous” (quotation marks omitted)). We also conclude that the court did not abuse its discretion when it excluded character evidence offered by Williams. *See In re Rachel J.*, 2002 ME 148, ¶¶ 11-12, 804 A.2d 418, 422-23 (stating that the exclusion of reputation evidence is reviewed for an abuse of discretion and that testimony as to an accused’s reputation must embody the collective judgment of a sufficiently large community, not the witness’s own opinion); M.R. Evid. 404(a)(1), 405(a); *see also* Field & Murray, *Maine Evidence* § 405.2 at 162 (2008 ed. 2007) (stating that testimony as to reputation “must relate to reputation at the time of the acts in question rather than the time of trial”); *State v. Brown*, 592 A.2d 163, 165 n.5 (Me. 1991) (“In some situations, the court may further insure that the reputation testimony is contemporaneous with the act charged.”).

The entry is:

Judgment affirmed.

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**Attorneys for Kirby Williams:**

Walter F. McKee, Esq.  
James A. Billings, Esq.  
Lipman, Katz & McKee, P.A.  
227 Water Street, 2nd Floor  
PO Box 1051  
Augusta, Maine 04332-1051

**Attorneys for the State of Maine:**

R. Christopher Almy, District Attorney  
Susan J. Pope, Asst. Dist. Atty.  
Prosecutorial District V  
97 Hammond Street  
Bangor, Maine 04401