

SUPREME JUDICIAL COURT OF MAINE

State v. Nastvogel

798 A.2d 1114 (Me. 2002); 2002 ME 97 · Decided June 20, 2002

SUMMARY

The Maine Supreme Judicial Court affirmed Vaughn Nastvogel's convictions for two counts of stalking and one count of harassment. The court held that Maine's general repeat-offender enhancement statute could operate alongside the stalking statute to elevate the stalking charges. It also rejected Nastvogel's vagueness challenge to the harassment statute, concluding that the statutory phrase "course of conduct" could reasonably be understood to include repeated behavior.

CASE DETAILS

COURT	Supreme Judicial Court of Maine
WRITING FOR THE COURT	Rudman, J.; Saufley, C.J.; Clifford, J.; Dana, J.; Alexander, J.; Calkins, J.; Levy, J.
JURISDICTION	Maine
DECIDED	June 20, 2002
DISPOSITION	affirmed
PROCEDURAL POSTURE	Defendant appealed judgments entered after a jury trial convicting him of two counts of stalking and one count of harassment.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo. Criminal statutes are strictly construed, and constitutional challenges are evaluated under the principle that a reasonable constitutional interpretation should be adopted when available.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Judicial Court of Maine.
PARTIES	Vaughn Nastvogel v. State of Maine

TOPICS

- statutory interpretation
- void for vagueness
- criminal procedure
- constitutional law

PRACTICE AREAS

- criminal law
- criminal procedure
- statutory interpretation
- constitutional law

QUESTIONS PRESENTED

1. Whether the stalking statute's specific enhancement provision precluded application of the general repeat-offender enhancement statute to elevate the stalking charges based on a prior assault conviction.
2. Whether the harassment statute was unconstitutionally void for vagueness because it did not define the phrase "course of conduct."

HOLDINGS

1. The specific enhancement provision in the stalking statute and the general repeat-offender enhancement provision can operate in concert; the general statute therefore properly permitted elevation of the stalking charges based on qualifying prior criminal convictions, including assault.
2. The harassment statute is not unconstitutionally vague because "course of conduct" can reasonably be understood to include repeated behavior; Nastvogel's two post-order attempts to contact the complainant were sufficient to constitute a course of conduct.

KEY QUOTATIONS

"Specific criminal statutory provisions take precedence over general ones." (798 A.2d at 1117)

"Although the two statutes make no reference to each other, they can be read to operate in concert." (798 A.2d at 1118)

"Those two efforts to contact the complainant are sufficient for a 'course of conduct.'" (798 A.2d at 1119)

FACTUAL BACKGROUND

Nastvogel continued repeatedly telephoning the complainant after she attempted to end their relationship and objected to further contact. She obtained a protection from harassment order, but Nastvogel called her immediately after being served and later made additional calls and attempted collect calls from jail. His prior convictions included stalking and assault, which the State used to elevate the stalking charges.

PROCEDURAL HISTORY

Nastvogel was indicted on two stalking counts and two harassment counts. The State used his prior assault and stalking convictions to elevate the stalking charges from Class D to Class C. After a jury convicted him of two stalking counts and one harassment count, the Superior Court denied his motion to dismiss the stalking indictments, and he appealed.

DISPOSITION

affirmed

CASES CITED

- State v. Day, 2000 ME 192, 760 A.2d 1039 (Me. 2000)
- State v. Wilder, 2000 ME 32, 748 A.2d 444 (Me. 2000)

- State v. Day, 1999 ME 29, 724 A.2d 1245 (Me. 1999)
- Fullerton v. Knox County Comm'rs, 672 A.2d 592, 594 (Me. 1996)
- S. Portland Civil Serv. Comm'n v. City of S. Portland, 667 A.2d 599, 601 (Me. 1995)
- State v. Cropley, 544 A.2d 302, 304 (Me. 1988)
- Bossie v. State, 488 A.2d 477, 479 (Me. 1985)
- State v. Fournier, 617 A.2d 998, 1000 (Me. 1992)
- State v. Crocker, 435 A.2d 58, 67, 77 (Me. 1981)
- State v. Littlefield, 389 A.2d 16, 21 (Me. 1978)

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