

STATE OF MAINE

v.

DOUGLAS W. CHARLES

Submitted on Briefs March 24, 2005
Decided March 30, 2005

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

MEMORANDUM OF DECISION

Douglas W. Charles appeals from a judgment of conviction for operating under the influence (Class D), 29-A M.R.S.A. § 2411(1)¹ (1996), entered by the Superior Court (Knox County, *Studstrup, J.*) upon a jury verdict. Contrary to Charles's contentions, the court did not err, *see State v. Stanton*, 1998 ME 85, ¶ 11, 710 A.2d 240, 244, in declining to declare a mistrial based on either the opening statement and closing argument of the State in which it distinguished operating under the influence from "drunk driving," *see State v. Hinds*, 485 A.2d 231, 238

¹ Section 2411(1) was repealed and replaced by section 2411(1-A), which became effective after the date of the crime alleged in the present case. P.L. 2003, ch. 452, §§ Q-77 to -78 (effective July 1, 2004) (codified at 29-A M.R.S.A. § 2411(1-A) (Supp. 2004)).

(Me. 1984), or its closing argument that Charles may have consumed more alcohol than he told the police officer who arrested him, *see State v. Comer*, 644 A.2d 7, 9-10 (Me. 1994).

The entry is:

Judgment affirmed.

Attorneys for State:

Geoffrey A. Rushlau, District Attorney
Carrie L. Carney, Asst. District Attorney
62 Union Street
Rockland, ME 04841

Attorney for defendant:

Peter B. Bickerman, Esq.
Verrill Dana, LLP
45 Memorial Circle
Augusta, ME 04332-5307