

STATE OF MAINE

v.

JOSEPH A. RYDER

Submitted on Briefs January 11, 2007

Decided February 8, 2007

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

MEMORANDUM OF DECISION

Joseph A. Ryder appeals from a judgment of conviction for operating after suspension (Class E), 29-A M.R.S. § 2412-A(1-A)(A) (2006), entered after a jury trial in the Superior Court (Knox County, *Studstrup, J.*). Contrary to Ryder's contentions, the court (1) did not err by implicitly concluding that the State did not commit a discovery violation by failing to disclose evidence that the State did not intend to use against Ryder until it learned, the morning of trial, that Ryder intended to present a competing harms defense, *see* M.R. Crim. P. 16(a)(1)(A); and (2) did not abuse its discretion in admitting this evidence, *see State v. Bridges*, 2003 ME 103, ¶ 39, 829 A.2d 247, 258. The court also did not commit obvious error in admitting

evidence of Ryder's admission about his prior driving history because this evidence did not prejudice Ryder's defense. *See* M.R. Crim. P. 52(b); *State v. White*, 2002 ME 122, ¶ 8, 804 A.2d 1146, 1149. In addition, because the evidence of Ryder's prior driving history was not exculpatory, there was no due process violation in the State's failure to disclose this evidence before the day of trial. *See State v. Brewer*, 1997 ME 177, ¶ 31, 699 A.2d 1139, 1147. Finally, Ryder has not demonstrated that the court committed obvious error in permitting certain prosecutorial remarks at closing argument. *See State v. Ashley*, 666 A.2d 103, 105 (Me. 1995).

The entry is:

Judgment affirmed.

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