

24-7515

No. _____

ORIGINAL

FILED
JUN 23 2025

OFFICE OF THE CLERK
SUPREME COURT, U.S.

IN THE
SUPREME COURT OF THE UNITED STATES

Joseph Cants — PETITIONER
(Your Name)

vs.
State of Maine — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

Maine Supreme Judicial Court

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Joseph Cants
(Your Name)

14195 W Sunrise Lake Dr.
(Address)

Pesoto, MO 63020
(City, State, Zip Code)

314-354-0756
(Phone Number)

QUESTION(S) PRESENTED

1. Does the manner in which Maine structures its Criminal Operating Under the Influence statute permit defendants to demand "ad hoc elements" of proof under the Sixth Amendment's Impartial Jury requirement?
2. Does the manner in which Maine structures and maintains its criminal Operating under the Influence statute infringe upon a defendant's property rights protected by the Fifth Amendment's Takings Clause?
3. Are the competing interests satisfied to the extent necessary to justify the subversion of both the impartial jury and takings of the U.S. Constitution?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

RELATED CASES

Trial Court - Penobscot County Superior Court
Criminal OUI, Case: PENCO-CR-2017-01768

Appellate Court - Maine Supreme Judicial Court
Case: 24-302

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TABLE OF AUTHORITIES CITED

CASES

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STATUTES AND RULES

Title 24-A See 2157

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OTHER

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,
 has been designated for publication but is not yet reported; or,
 is unpublished.

JURISDICTION

[] For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

[] No petition for rehearing was timely filed in my case.

[] A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

[] For cases from **state courts**:

The date on which the highest state court decided my case was February 27th, 2025 ~~March 21st, 2025~~.
A copy of that decision appears at Appendix _____.

A timely petition for rehearing was thereafter denied on the following date: March 21st, 2025 and a copy of the order denying rehearing appears at Appendix _____.

[] An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ___A_____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

U.S. Constitution

Fifth Amendment - No person shall be deprived of life liberty or property, without due process of law, nor shall private property be taken for public use, without just compensation

Sixth Amendment - In all criminal prosecutions, the accused shall enjoy the right to a public speedy trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation to be confronted.

Maine

Title 24-A Sec. 2157 Defamation Pg.

Title 29-A Sec 2411 Criminal OVI Pg

**Title 24-A: MAINE INSURANCE CODE
Chapter 23: TRADE PRACTICES AND FRAUDS**

§2157. Defamation

No person shall make, publish, disseminate, or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to an insurer, or of an organization proposing to become an insurer, and which is calculated to injure any person engaged or proposing to engage in the business of insurance. [PL 1969, c. 132, §1 (NEW).]

SECTION HISTORY

PL 1969, c. 132, §1 (NEW).

The Revisor's Office cannot provide legal advice or interpretation of Maine law to the public.

If you need legal advice, please consult a qualified attorney.

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Title 29-A: MOTOR VEHICLES AND TRAFFIC
Chapter 23: MAJOR OFFENSES - SUSPENSION AND REVOCATION
Subchapter 2: JUDICIAL ACTIONS
Article 1: OFFENSES

§2411. Criminal OUI

1. Offense.

[PL 2003, c. 452, Pt. Q, §77 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

1-A. Offense. A person commits OUI if that person:

A. Operates a motor vehicle:

- (1) While under the influence of intoxicants; or
- (2) While having an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath; [PL 2009, c. 447, §37 (AMD).]

B. Violates paragraph A (./29-A/title29-Asec2411.html) and:

- (1) Has one previous OUI offense within a 10-year period;
- (2) Has 2 previous OUI offenses within a 10-year period; or
- (3) Has 3 or more previous OUI offenses within a 10-year period; [PL 2003, c. 452, Pt. Q, §78 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

C. Violates paragraph A (./29-A/title29-Asec2411.html), failed to submit to a test at the request of a law enforcement officer and:

- (1) Has no previous OUI offenses within a 10-year period;
- (2) Has one previous OUI offense within a 10-year period;
- (3) Has 2 previous OUI offenses within a 10-year period; or
- (4) Has 3 previous OUI offenses within a 10-year period; or [PL 2003, c. 452, Pt. Q, §78 (NEW); PL 2003, c. 452, Pt. X, §2 (AFF).]

D. Violates paragraph A (./29-A/title29-Asec2411.html), B (./29-A/title29-Asec2411.html) or C (./29-A/title29-Asec2411.html) and:

- (1) In fact causes serious bodily injury as defined in Title 17-A, section 2, subsection 23 (./17-A/title17-Asec2.html) to another person;
- (1-A) In fact causes the death of another person; or

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(2) Has either a prior conviction for a Class B or Class C crime under this section or former Title 29, section 1312-B ([./29/title29sec1312-B.html](#)) or a prior criminal homicide conviction involving or resulting from the operation of a motor vehicle while under the influence of intoxicating liquor or drugs or with an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath. For purposes of this subparagraph, the 10-year limitation specified in section 2402 ([./29-A/title29-Asec2402.html](#)) and Title 17-A, section 9-A, subsection 3 ([./17-A/title17-Asec9-A.html](#)) does not apply to the prior criminal homicide conviction or to a prior conviction for a Class B or Class C crime under this section or former Title 29, section 1312-B. The convictions may have occurred at any time. [RR 2015, c. 2, §18 (COR).]

[RR 2015, c. 2, §18 (COR).]

2. Pleading and proof. The alternatives outlined in subsection 1-A, paragraph A ([./29-A/title29-Asec2411.html](#)) may be pleaded in the alternative. The State is not required to elect between the alternatives prior to submission to the fact finder. In a prosecution under subsection 1-A, paragraph D ([./29-A/title29-Asec2411.html](#)), the State need not prove that the defendant's condition of being under the influence of intoxicants or having an alcohol level of 0.08 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath caused the serious bodily injury or death alleged. The State must prove only that the defendant's operation caused the serious bodily injury or death. The court shall apply Title 17-A, section 33 ([./17-A/title17-Asec33.html](#)) in assessing any causation under this section.

[PL 2009, c. 447, §39 (AMD).]

3. Investigation. After a person has been charged with OUI, the officer shall investigate whether the charged person has prior OUI offenses. As part of the investigation, the officer shall make necessary inquiries of the Secretary of State.

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

4. Arrest. A law enforcement officer may arrest, without a warrant, a person the officer has probable cause to believe has operated a motor vehicle while under the influence of intoxicants if the arrest occurs within a period following the offense reasonably likely to result in the obtaining of probative evidence of an alcohol level or the presence of a drug or drug metabolite.

[PL 2013, c. 459, §2 (AMD).]

5. Penalties. Except as otherwise provided in this section and section 2508 ([./29-A/title29-Asec2508.html](#)), violation of this section is a Class D crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A ([./17-A/title17-Asec34.html](#)). The following minimum penalties apply and may not be suspended:

A. For a person having no previous OUI offenses within a 10-year period:

(1) A fine of not less than \$500, except that if the person failed to submit to a test, a fine of not less than \$600;

(2) A court-ordered suspension of a driver's license for a period of 150 days; and

(3) A period of incarceration as follows:

(a) Not less than 48 hours when the person:

- (i) Was tested as having an alcohol level of 0.15 grams or more of alcohol per 100 milliliters of blood or 210 liters of breath;
- (ii) Was exceeding the speed limit by 30 miles per hour or more;
- (iii) Eluded or attempted to elude an officer; or
- (iv) Was operating with a passenger under 21 years of age; and

(b) Not less than 96 hours when the person failed to submit to a test at the request of a law enforcement officer; [PL 2013, c. 389, §1 (AMD); PL 2013, c. 389, §7 (AFF).]

B. For a person having one previous OUI offense within a 10-year period:

- (1) A fine of not less than \$700, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than \$900;
- (2) A period of incarceration of not less than 7 days, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than 12 days;
- (3) A court-ordered suspension of a driver's license for a period of 3 years; and
- (4) In accordance with section 2416 (./29-A/title29-Asec2416.html), a court-ordered suspension of the person's right to register a motor vehicle; [PL 2007, c. 531, §2 (AMD); PL 2007, c. 531, §10 (AFF).]

C. For a person having 2 previous OUI offenses within a 10-year period, which is a Class C crime:

- (1) A fine of not less than \$1,100, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than \$1,400;
- (2) A period of incarceration of not less than 30 days, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than 40 days;
- (3) A court-ordered suspension of a driver's license for a period of 6 years; and
- (4) In accordance with section 2416 (./29-A/title29-Asec2416.html), a court-ordered suspension of the person's right to register a motor vehicle; [PL 2007, c. 531, §2 (AMD); PL 2007, c. 531, §10 (AFF).]

D. For a person having 3 or more previous OUI offenses within a 10-year period, which is a Class C crime:

- (1) A fine of not less than \$2,100, except that if the person failed to submit to a test at the request of a law enforcement officer, a fine of not less than \$2,500;
- (2) A period of incarceration of not less than 6 months, except that if the person failed to submit to a test at the request of a law enforcement officer, a period of incarceration of not less than 6 months and 20 days;
- (3) A court-ordered suspension of a driver's license for a period of 8 years; and
- (4) In accordance with section 2416 (./29-A/title29-Asec2416.html), a court-ordered suspension of the person's right to register a motor vehicle; [PL 2013, c. 187, §1 (AMD).]

D-1. A violation of subsection 1-A, paragraph D (./29-A/title29-Asec2411.html), subparagraph (1) is a Class C crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A (./17-A/title17-Asec34.html). The sentence must include a period of incarceration of not less than 6 months, a fine of not less than \$2,100 and a court-ordered suspension of a driver's license for a period of 6 years. These penalties may not be suspended; [PL 2005, c. 606, Pt. A, §2 (AMD).]

D-2. A violation of subsection 1-A, paragraph D (./29-A/title29-Asec2411.html), subparagraph (1-A) or (2) is a Class B crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A (./17-A/title17-Asec34.html). The sentence must include a period of incarceration of not less than 6 months, a fine of not less than \$2,100 and a court-ordered suspension of a driver's license for a period of 10 years. These penalties may not be suspended; [PL 2005, c. 606, Pt. A, §3 (NEW).]

E. If a law enforcement officer failed to provide the warnings required by section 2521, subsection 3 (./29-A/title29-Asec2521.html), the increase in minimum penalties required because of a refusal to submit to a test is not mandatory; [PL 1997, c. 737, §9 (AMD).]

E. For a person sentenced under paragraph B (./29-A/title29-Asec2411.html), C (./29-A/title29-Asec2411.html) or D (./29-A/title29-Asec2411.html), the court shall order the defendant to participate in the alcohol and other drug program of the Department of Health and Human Services. The court may waive the program pursuant to Title 5, section 20073-B (./5/title5sec20073-B.html), if the court finds that the defendant has completed an alcohol or other drug treatment program subsequent to the date of the offense; and [PL 2011, c. 657, Pt. AA, §78 (AMD).]

G. The court shall order an additional period of license suspension of 275 days for a person sentenced under paragraph A (./29-A/title29-Asec2411.html), B (./29-A/title29-Asec2411.html), C (./29-A/title29-Asec2411.html), D (./29-A/title29-Asec2411.html), D-1 (./29-A/title29-Asec2411.html) or D-2 (./29-A/title29-Asec2411.html) if the person was operating the motor vehicle at the time of the offense with a passenger under 21 years of age. [PL 2005, c. 606, Pt. A, §4 (AMD).]

[PL 2013, c. 187, §1 (AMD); PL 2013, c. 389, §1 (AMD); PL 2013, c. 389, §7 (AFF).]

5-A. Notice and custody. The court shall give notice of a license suspension and shall take physical custody of the driver's license, except when the defendant demonstrates that the defendant's license was previously restored by the Secretary of State following an administrative suspension under section 2453 (./29-A/title29-Asec2453.html) or 2453-A (./29-A/title29-Asec2453-A.html) for operating under the influence based on the same facts and circumstances giving rise to the court-ordered suspension.

[PL 2017, c. 99, §1 (AMD).]

5-B. Additional period of suspension. The Secretary of State may impose an additional period of suspension under section 2451, subsection 3 (./29-A/title29-Asec2451.html) or may extend a period of suspension until satisfaction of any conditions imposed pursuant to chapter 23, subchapter III, article 4 (./29-A/title29-Ach23sec0.html).

[PL 1995, c. 368, Pt. AAA, §9 (NEW).]

6. Aggravated punishment category.

[PL 2003, c. 452, Pt. Q, §83 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

7. Surcharge. A surcharge must be charged for a conviction under this section. The surcharge is \$30, except that, when the person operated or attempted to operate a motor vehicle while under the influence of drugs or a combination of liquor and drugs, the surcharge is \$125. For the purposes of collection procedures, the surcharge is considered a fine. Notwithstanding [section 2602 \(./29-A/title29-Asec2602.html\)](#), this surcharge accrues to the Highway Fund for the purpose of covering the costs associated with the administration and analysis of alcohol level tests.

[PL 2009, c. 447, §42 (AMD).]

8. Juvenile crime. References in this Title to this section include the juvenile crime in [Title 15, section 3103, subsection 1, paragraph F \(./15/title15sec3103.html\)](#), and the disposition, including a suspension, for that juvenile crime in [Title 15, section 3314, subsection 3 \(./15/title15sec3314.html\)](#), except as otherwise provided or except where the context clearly requires otherwise.

[PL 1993, c. 683, Pt. A, §2 (NEW); PL 1993, c. 683, Pt. B, §5 (AFF).]

SECTION HISTORY

PL 1993, c. 683, §A2 (NEW). PL 1993, c. 683, SB5 (AFF). PL 1995, c. 65, SA115 (AMD). PL 1995, c. 65, §§A153,C15 (AFF). PL 1995, c. 368, §§AAA7-10 (AMD). PL 1995, c. 645, SB18 (AMD). PL 1997, c. 737, §§8-11 (AMD). PL 1999, c. 703, §1 (AMD). PL 2001, c. 332, §1 (AMD). PL 2001, c. 511, §3 (AMD). PL 2003, c. 452, SSQ77-83 (AMD). PL 2003, c. 452, SX2 (AFF). PL 2003, c. 633, S8 (AMD). PL 2003, c. 673, SSS73,4 (AMD). PL 2003, c. 689, SB6 (REV). PL 2005, c. 397, SSB7,8 (AFF). PL 2005, c. 438, §1 (AMD). PL 2005, c. 606, §§A1-4 (AMD). PL 2007, c. 531, §2 (AMD). PL 2007, c. 531, §10 (AFF). PL 2009, c. 447, §§37-42 (AMD). PL 2011, c. 81, §1 (AMD). PL 2011, c. 159, §1 (AMD). PL 2011, c. 657, Pt. AA, §78 (AMD). PL 2013, c. 187, §1 (AMD). PL 2013, c. 389, §1 (AMD). PL 2013, c. 389, §7 (AFF). PL 2013, c. 459, §2 (AMD). PL 2013, c. 604, §2 (AMD). RR 2015, c. 2, §18 (COR). PL 2017, c. 99, §1 (AMD).

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STATEMENT OF THE CASE

This case seeks review of the Maine Supreme Court's affirmation of defendant's conviction of criminal operating under the influence. The first two questions posed come directly from the Maine Supreme Judicial Court's Memorandum of Decision (Appendix D, pg D1 + D2) where that court first called out Defendant-Appellants brief for what it was - "a demand for proof of ad hoc elements" (App. D, pg D1), and second, denied there was "a property interest in having his impairment evaluated based on his reaction ability" (App D, Pg D1 + D2). The third question posed comes directly from Defendant-Appellants brief where it was presumed the rights were infringed on and sought an evaluation of the competing interests to possibly strike down that infringement. Despite the Maine Supreme Judicial Court's sarcasm (App. D, pg D2 "...precise..."), and the state's defamation statute (Petition for Writ of Cert pg 41), Defendant-Appellant has not been compensated whatsoever and the impartial jury is an individual right "enjoyed by the accused" (Sixth Amendment, Petition for Writ of Cert. pg 3) yet the state acts ^{as if} it can demand a defendant ¹⁰ suit as remedy.

REASONS FOR GRANTING THE PETITION

This court has made it clear in Sixth Amendment precedent that it does not want impartiality in any way, shape or form in any court in the United States, but as the Maine Supreme Judicial Court pointed out, it has never been said the impartial jury requirement allows defendants to demand ad hoc elements of proof, and that is a federal question this court should settle. Driving simulators proving actual reaction abilities is clearly far less partial than a flatline bac. applicable to all. The Maine Supreme Judicial Court's decision regarding the takings clause however, isn't a new question of law, but a direct contradiction that conflicts with relevant decisions of this court. Namely the Maine court's decision manifests divestment and disincentive in a variety of capacities that this court has said the takings clause is designed to protect against. Ultimately this costs American lives and betrays the public trust. Lastly, the competing interests here are now global and some policy considerations still fall under this court's purview. (see petitioners brief and motion App. B + E)

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,



Date: June 22nd, 2025