

# Drunk-driving acquittal upheld by Supreme Court

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OTTAWA

A man acquitted of drunk driving after being involved in a multi-vehicle crash was able to stay clear of the charge Thursday after the Supreme Court dismissed an appeal to have the case heard again.

Stephen Soules, a native of Alberta, was acquitted of drunk-driving charges surrounding a September 2009 incident where he was involved in a four-car pileup one morning when he struck a car turning into the driveway of a funeral home, according to court documents.

Soules, however, had come to a complete stop. He only hit the vehicle in front of him because another car smashed into him from behind, propelling his vehicle into the car in front of him. Another vehicle then slammed into the car that hit Soules.

When police arrived, the officer first to the scene asked all of the drivers what had happened.

During his interview, Soules replied that he was the driver of his vehicle. The officer noticed that Soules's eyes were

bloodshot and glassy and that he smelled of alcohol. Soules admitted to the officer that he had been out drinking the night before, according to court documents.

Soules was then asked to take a breathalyzer test, which he failed. He was then arrested.

At trial, he was acquitted of the drunk-driving charges because the judge found that Soules's charter rights were violated because he incriminated himself.

Under legal precedent, a statement given under the B.C. Highway Traffic Act — in this case, an accident report — cannot be used as evidence for a conviction under the Criminal Code.

This forced the judge to eliminate the breathalyzer evidence because the test was given, in part, because Soules told the police he had been drinking the night before.

The Crown appealed the decision to higher courts. The appeal was dismissed in February 2010 by the Ontario Superior Court and again in June 2011 by the Ontario Court of Appeal, but on the same basis.