

STATE OF MAINE

v.

HASSAN ALBIDHANI

Submitted on Briefs June 26, 2003

Decided July 15, 2003

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

MEMORANDUM OF DECISION

Hassan Albidhani appeals from the District Court's (Lewiston, *Lawrence, J.*) denial of his motion for a new trial filed pursuant to M.R. Crim. P. 33 after a judgment of conviction for assault (Class D), in violation of 17-A M.R.S.A. § 207(1) (1983). Albidhani moved for a new trial on the grounds that Angela Fecteau, the only witness to the incident and one of only two witnesses at trial, recanted her trial testimony by filing an affidavit after the trial. On appeal, Albidhani argues that the District Court improperly denied his motion on the grounds that Fecteau's recantation did not constitute newly discovered evidence that would probably change the result of the trial.

The District Court did not abuse its discretion in denying Albidhani's motion on the grounds that the result of the trial probably would not have been different had the evidence of her recantation been available at the time of the trial, because Fecteau's affidavit did not explain either her statements to the officer at the scene that implicated the defendant or the victim's injuries. *See State v. Sheldon*, 2000 ME 193, ¶ 7, 760 A.2d 1083, 1084-85.

The entry is:

Judgment affirmed.

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