

STATE OF MAINE

v.

BATISTA BAZEYA

Submitted on Briefs February 27, 2007  
Decided March 13, 2007

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

MEMORANDUM OF DECISION

The State appeals from a judgment entered in the Superior Court (Cumberland County, *Cole, J.*) granting Batista Bazeya a new trial on the charge of elevated aggravated assault (Class A), 17-A M.R.S. § 208-B(1)(A) (2006). The State has failed to prove that the admission of statements made by the victim to a police officer at the hospital was harmless beyond a reasonable doubt. *See State v. Diaz*, 681 A.2d 466, 469 (Me. 1996). We therefore affirm the court's decision to grant Bazeya a new trial because the admission of the statement was error pursuant to *Davis v. Washington*, 126 S. Ct. 2266, 2273-74 (2006).

The entry is:

Judgment affirmed.

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**Attorneys for State:**

Stephanie Anderson, District Attorney  
Julia A. Sheridan, Asst. Dist. Attorney  
142 Federal Street  
Portland, ME 04101

**Attorney for defendant:**

Mary A. Davis, Esq.  
Tisdale & Davis, P.A.  
P.O. Box 572  
Portland, ME 04112-0572