

STATE OF MAINE

v.

MIGUEL GARCIA

Submitted on Briefs November 26, 2002  
Decided December 20, 2002

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

MEMORANDUM OF DECISION

Miguel Garcia appeals from a judgment entered in Superior Court (Penobscot County, *Jabar, J.*) denying his motion for a new trial pursuant to M.R. Crim. P. 33 after he had been convicted of aggravated assault (Class B) in violation of 17-A M.R.S.A. § 208(1)(B) (1983). Contrary to Garcia's contentions, the Superior Court did not err when it found that the photographic lineup was not unduly suggestive, *State v. Kelly*, 2000 ME 107, ¶ 19, 752 A.2d 188, 192; when it determined Garcia's statements to be the voluntary choice of a rational mind, *State*

*v. Cole*, 1997 ME 112, ¶ 6, 695 A.2d 1180, 1182; and when it denied Garcia's motion for a new trial, *State v. Rankin*, 666 A.2d 123, 127 (Me. 1995).

The entry is:

Judgment affirmed.

---

Attorneys for State:

R. Christopher Almy, District Attorney  
C. Daniel Wood, Asst. Dist. Atty. (orally)  
97 Hammond Street  
Bangor, ME 04401

Attorney for defendant:

Joseph M. Pickering, Esq. (orally)  
Largay Law Offices, P.A.  
293 State Street, suite one  
Bangor, ME 04401