

NO. 29621 & 29909

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

NO. 29621

STATE OF HAWAI'I, Plaintiff-Appellee,
v.
CHEN HUA HSO KONA, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(CRIMINAL CASE NO. 1P107-20951)

AND

NO. 29909

STATE OF HAWAI'I, Plaintiff-Appellee,
v.
ON MUK CABRAL, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(CRIMINAL CASE NO. 1P107-20948)

SUMMARY DISPOSITION ORDER

(By: Nakamura, C.J., Foley and Reifurth, JJ.)

In this consolidated appeal, Defendants-Appellants Chen Hua Hso Kona (Kona) and On Muk Cabral (Cabral) appeal from the respective notices of entry of judgment and/or orders (Judgments) filed on January 7, 2009 in the District Court of the First Circuit, Honolulu Division (district court).¹

Kona and Cabral were convicted of Prostitution, in violation of Hawaii Revised Statutes § 712-1200(1) (1993). Kona filed a notice of appeal on February 9, 2009, which was docketed as appeal no. 29621. Cabral filed a notice of appeal on June 26, 2009, which was docketed as appeal no. 29909. The parties stipulated to consolidation of the two appeals, and an order of consolidation was issued on July 14, 2009.

On appeal, Kona and Cabral contend that (1) there was insufficient evidence to convict them of prostitution and (2)

¹ The Honorable Lono Lee presided.

they did not knowingly and intelligently waive their right to testify because the district court failed to conduct an adequate colloquy required by *State v. Tachibana*, 79 Hawai'i 226, 900 P.2d 1293 (1995).

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we resolve Kona's and Cabral's points of error as follows:

There was insufficient evidence to convict Kona or Cabral of prostitution. See *State v. Xiao*, No. 28370, 2010 WL 2106494 (Haw. May 25, 2010). Because there was insufficient evidence to convict, we need not address the remaining point of error.

Therefore,

IT IS HEREBY ORDERED that the Judgments filed on January 7, 2009 in the District Court of the First Circuit, Honolulu Division, are reversed.

DATED: Honolulu, Hawai'i, June 29, 2010.

On the briefs:

James S. Tabe,
Deputy Public Defender,
for Defendant-Appellant
Chen Hua Hso Kona

Chief Judge

Associate Judge

Marcus B. Sierra
(Law Offices of Paul J.
Cunney) for Defendant-
Appellant On Muk Cabral

Associate Judge

James M. Anderson,
Deputy Prosecuting Attorney,
City & County of Honolulu,
for Plaintiff-Appellee.