

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 29625

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
CHRISTOPHER A. PHANPRADITH, Defendant-AppellantK. HAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2010 MAR 19 AM 7:57

FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 06-1-0310)SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Christopher A. Phanpradith (Phanpradith) appeals from the Judgment of Conviction and Sentence filed on January 20, 2009 in the Circuit Court of the First Circuit (circuit court).¹ A jury convicted Phanpradith of one count of Sexual Assault in the First Degree, in violation of Hawaii Revised Statutes (HRS) § 707-730 (Supp. 2005) and two counts of Sexual Assault in the Third Degree, in violation of HRS § 707-732 (Supp. 2008).

On appeal, Phanpradith contends that (1) with respect to the charge of Sexual Assault in the First Degree, the circuit court erred by not instructing the jury on the included offense of Sexual Assault in the Third Degree and (2) there was insufficient evidence to convict him.

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 Phanpradith's points of error as follows:

(1) Even if the circuit court erred by failing to instruct the jury on Sexual Assault in the Third Degree, it was harmless error because the jury convicted Phanpradith of a

¹ The Honorable Steven S. Alm presided.

greater offense. State v. Haanio, 94 Hawai'i 405, 415-16, 16 P.3d 246, 256-57 (2001).

(2) Considering the evidence adduced at trial in the strongest light in favor of the prosecution, there was substantial evidence of each element of sufficient quality and probative value to enable a person of reasonable caution to support a conclusion that Phanpradith was guilty of one count of Sexual Assault in the First Degree and two counts of Sexual Assault in the Third Degree. State v. Richie, 88 Hawai'i 19, 33, 960 P.2d 1227, 1241 (1998). This court will not set aside verdicts based on conflicting evidence where there is substantial evidence to support the jury's findings. State v. Mattiello, 90 Hawai'i 255, 259, 978 P.2d 693, 697 (1999).

Therefore,

The Judgment of Conviction and Sentence filed on January 20, 2009 in the Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, March 19, 2010.

On the briefs:

Dean K. Young
for Defendant-Appellant.

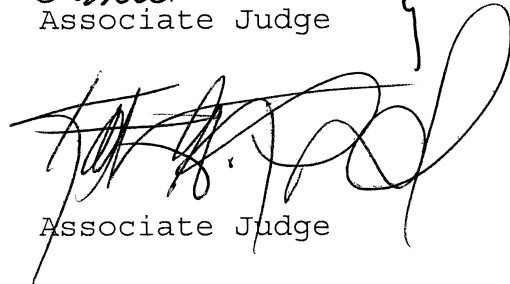
James M. Anderson,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.



Chief Judge



Associate Judge



Associate Judge