

NO. 30161

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

STATE OF HAWAI'I, Plaintiff-Appellee,  
v.  
PAMELA L. TAYLOR, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(CR. NO. 08-1-0331)

SUMMARY DISPOSITION ORDER

(By: Nakamura, Chief Judge, and Foley and Fujise, JJ.)

Defendant-Appellant Pamela L. Taylor (Taylor) appeals from the "Judgment of Conviction and Sentence" (Judgment) entered by the Circuit Court of the First Circuit (Circuit Court)<sup>1</sup> on October 7, 2009. Taylor was convicted of second-degree theft by deception, in violation of Hawaii Revised Statutes (HRS) §§ 708-830(2) (1993) and 708-831(1)(b) (Supp. 2011). The Circuit Court sentenced Taylor to five years of incarceration and ordered her to pay \$7,000 in restitution.

On appeal, Taylor argues: (1) the Circuit Court erred in failing to instruct the jury on her mistake-of-fact defense; and (2) there was insufficient evidence to support her conviction.

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<sup>1</sup> The Honorable Dexter D. Del Rosario presided.

We resolve Taylor's arguments on appeal as follows:

(1) Based on State v. Stenger, 122 Hawai'i 271, 226 P.3d 441 (2010), we conclude that the Circuit Court erred in failing to instruct the jury on Taylor's mistake-of-fact defense and that such error was not harmless beyond a reasonable doubt.

(2) Taylor's claim that there was insufficient evidence to support her conviction is based on her version of the facts. However, when viewed in the light most favorable to the prosecution, see State v. Tamura, 63 Haw. 636, 637, 633 P.2d 1115, 1117 (1981), there was sufficient evidence to support Taylor's conviction. See State v. Yamada, 116 Hawai'i 422, 442, 173 P.3d 569, 589 (App. 2007) ("[O]n appeal, this court will not attempt to reconcile conflicting evidence, or interfere with a jury decision based on the credibility of witnesses or the weight of the evidence." (block quote format and citation omitted); State v. Smith, 106 Hawai'i 365, 372, 105 P.3d 242, 249 (App. 2004) ("It is the province of the jury, not the appellate courts, to determine the credibility of witnesses and the weight of the evidence.").

We vacate the Judgment entered by the Circuit Court, and we remand the case for a new trial consistent with this Summary Disposition Order on the charge of second-degree theft by deception.

DATED: Honolulu, Hawai'i, at February 29, 2012.

On the briefs:

Phyllis J. Hironaka  
Deputy Public Defender  
for Defendant-Appellant

Chief Judge

Kimberly Tsumoto Guidry  
Deputy Solicitor General  
Department of the Attorney General  
for Plaintiff-Appellee

Associate Judge

Associate Judge