

NO. CAAP-13-0002551

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
BRANDON HAYATA, Defendant-Appellant

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-CR. NO. 12-1-1992)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Brandon Hayata (**Hayata**) appeals from the Judgment of Conviction and Sentence/Notice of Entry (**Judgment**), filed on July 17, 2013, in the Family Court of the First Circuit (**Family Court**).¹

Hayata was convicted of Violation of an Order for Protection, in violation of Hawaii Revised Statutes § 586-11 (Supp. 2012).

On appeal, Hayata contends the Family Court erred by denying his July 15, 2013 oral Motion to Dismiss for Violation of Rule 48 of the Hawai'i Rules of Penal Procedure (**HRPP**).

¹ The Honorable Dean E. Ochiai presided.

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 Hayata's point of error as follows:

Although the State also contests whether certain other time periods should be excluded for purposes of determining whether there was a violation of HRPP Rule 48, Hayata's sole argument on appeal is that because of the Family Court's erroneous exclusion of the time period from February 11, 2013 to March 11, 2013 for "good cause" due to the illness of the trial judge, Jeanette Castagnetti, more than 180 days elapsed between his arrest and trial in violation of HRPP Rule 48.

Judge Castagnetti's illness constituted "good cause," pursuant to HRPP Rule 48(c)(8). See State v. Abregano, CAAP-13-0000401, 2014 WL 3796765 at *2-*3 (App. July 31, 2014) (SDO), cert granted, SCWC-13-0000401, 2014 WL 7009505 (Dec. 11, 2014). Because the time period from February 11, 2013 to March 11, 2013 was properly excluded, there was no violation of HRPP Rule 48.

Therefore, the Family Court's July 17, 2013 Judgment is affirmed.

DATED: Honolulu, Hawai'i, June 15, 2015.

On the briefs:

Walter J. Rodby
for Defendant-Appellant

Chief Judge

Stephen K. Tsushima
Deputy Prosecuting Attorney
City and County of Honolulu
for Plaintiff-Appellee

Associate Judge

Associate Judge