

Electronically Filed
Intermediate Court of Appeals
30073
27-OCT-2010
10:21 AM

NO. 30073

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee,
v.
JEREMIAH J. KEENAN, Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT
WAILUKU DIVISION
(CR. NO. 2P108-01155)

SUMMARY DISPOSITION ORDER

(By: Foley, Presiding Judge, Fujise and Ginoza, JJ.)

Defendant-Appellant Jeremiah J. Keenan (Keenan) appeals from the Notice of Entry of Judgment and/or Order (Judgment) entered on August 18, 2009 in the District Court of the Second Circuit, Wailuku Division (District Court).¹

Keenan was convicted of Prohibitions Involving Minors, in violation of Hawaii Revised Statutes (HRS) § 281-101.5 (2007 Repl.).

On appeal, Keenan contends: (1) there was insufficient evidence to convict him because the State failed to adduce evidence that the liquid in the bottle was "liquor" for purposes of HRS § 281-101.5; and (2) the Complaint was defective because the charge was stated in the disjunctive and did not track the

¹ The Honorable Simone C. Polak presided.

language of the statute, and he had raised the issue in a motion for judgment of acquittal.

The State argues that there was sufficient evidence to support Keenan's conviction, but concedes that the Complaint was fatally defective because it was phrased in the disjunctive.

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 Keenan's points of error as follows:

The Complaint was fatally defective because it did not, in any cognizable or reasonable fashion, state the essential elements of the offense. See State v. Wheeler, 121 Hawai'i 383, 219 P.3d 1170 (2009). The phrasing of the Complaint utilizing the word "or" multiple times, combined with a failure of the Complaint to track the language of the statute (and instead reordering the language of the statute), rendered the Complaint incomprehensible.

Because we conclude that the Complaint against Keenan was fatally defective, we do not address Keenan's other point of error.

Therefore, the Judgment filed on August 18, 2009 in the District Court is vacated and the case is remanded to the District Court with instructions to dismiss the charge without prejudice.

DATED: Honolulu, Hawai'i, October 27, 2010.

On the briefs:

Jon N. Ikenaga
Deputy Public Defender
for Defendant-Appellant

Richard K. Minatoya
Deputy Prosecuting Attorney
County of Maui
for Plaintiff-Appellee


Presiding Judge


Associate Judge


Associate Judge