

NO. CAAP-14-0001163

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
ANTHONY MICHAEL MIYOSE, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CRIMINAL NO. 13-1-1035)

SUMMARY DISPOSITION ORDER

(By: Foley, Presiding J., Fujise and Leonard, JJ.)

Defendant-Appellant Anthony Michael Miyose (**Miyose**) appeals from a September 23, 2014 "Judgment of Conviction and Probation Sentence" (**Judgment**) entered by the Circuit Court of the First Circuit¹ (**circuit court**).

On appeal, Miyose contends that Plaintiff-Appellee State of Hawai'i (**State**) failed to produce sufficient evidence to prove beyond a reasonable doubt that Miyose acted either as a principal or as an accomplice to the offense of assault in the second degree in violation of Hawaii Revised Statutes (**HRS**) § 707-711(1)(d) (2014 Repl.). The State argued at trial that Miyose should be found guilty as an accomplice.

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, as well as the relevant statutory and case law, we conclude Miyose's appeal is without merit.

"[I]n reviewing the sufficiency of the evidence to

support the conviction the appellate court must take that view of the evidence with inferences reasonably and justifiably to be drawn therefrom most favorable to the Government, without weighing the evidence or determining the credibility of the witnesses." State v. Cannon, 56 Haw. 161, 166, 532 P.2d 391, 396 (1975) (citation and internal quotations omitted). "The test on appeal is not whether guilt is established beyond a reasonable doubt, but whether there was substantial evidence to support the conclusion of the trier of fact." State v. Batson, 73 Haw. 236, 248, 831 P.2d 924, 931 (1992). "'Substantial evidence' as to every material element of the offense charged is credible evidence which is of sufficient quality and probative value as to enable a person of reasonable caution to support a conclusion." State v. Eastman, 81 Hawai'i 131, 135, 913 P.2d 57, 61 (1996) (quoting State v. Pone, 78 Hawai'i 262, 265, 892 P.2d 455, 458 (1995)). Under such a review, the appellate court gives "full play to the right of the fact finder to determine credibility, weigh the evidence, and draw justifiable inferences of fact." State v. Yabusaki, 58 Haw. 404, 411, 570 P.2d 844, 848 (1977).

HRS § 707-711(1)(d) provides, that "[a] person commits the offense of assault in the second degree if . . . [t]he person intentionally or knowingly causes bodily injury to another with a dangerous instrument[.]" In addition, HRS § 702-221(2)(c) (2014 Repl.) provides, that "[a] person is legally accountable for the conduct of another person when . . . [h]e is an accomplice of such other person in the commission of the offense." Furthermore, HRS § 702-222(1)(b) (2014 Repl.) provides, in pertinent part, that "[a] person is an accomplice of another person in the commission of an offense if . . . [w]ith the intention of promoting or facilitating the commission of the offense, the person . . . [a]ids or agrees or attempts to aid the other person in planning or committing it[.]"

The record indicates was substantial evidence that Miyose was an accomplice to another person with the intention of promoting or facilitating the commission of assault in the second degree. The record also indicates there was substantial evidence

that Miyose participated with other persons intentionally or knowingly causing the bodily injury to another with a dangerous instrument, a baseball bat.

Therefore,

IT IS HEREBY ORDERED that the "Judgment of Conviction and Probation Sentence" entered September 23, 2014 in the Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, November 21, 2016.

On the briefs:

Arthur N. Indiola
for Defendant-Appellant.

Presiding Judge

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

Associate Judge

Associate Judge