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NO. CAAP-18-0000319

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee,  
v.  
BOBBY D. BRAZAN, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
(CASE NO. 1DCW-17-0003024)

SUMMARY DISPOSITION ORDER

(By: Fujise, Presiding Judge, Chan and Hiraoka, JJ.)

Defendant-Appellant Bobby D. Brazan (**Brazan**) was convicted of Assault in the Third Degree in violation of Hawaii Revised Statutes (**HRS**) § 707-712(1)(a) (2014).<sup>1</sup> He appeals from the Notice of Entry of Judgment and/or Order (**Judgment**) entered by the District Court of the First Circuit, 'Ewa Division (**District Court**)<sup>2</sup> on March 14, 2018. On appeal, Brazan claims there was insufficient evidence to convict him of Assault in the Third Degree. For the reasons explained below, we affirm the Judgment.

On August 16, 2017, Brazan was charged by complaint with Assault in the Third Degree. The complaint alleged that Brazan assaulted Headley P. Gumbs (**Gumbs**) on February 19, 2016.

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<sup>1</sup> HRS § 707-712 provides, in relevant part:

(1) A person commits the offense of assault in the third degree if the person:

(a) Intentionally, knowingly, or recklessly causes bodily injury to another person[.]

<sup>2</sup> The Honorable Darolyn H. Lendio presided.

Brazan pleaded not guilty. A jury-waived trial was conducted on March 14, 2018.

Gumbs was the State's only witness. He testified that on February 19, 2016, at about 11:00 p.m., he went to his girlfriend's house in Waipahu, parked his vehicle, and walked toward the gate. Brazan pulled up in a vehicle and blocked him in. Brazan began cursing and kicked the back of Gumbs' leg. Brazan accused Gumbs: "You know, you telling somebody that I have AIDS." Gumbs tried to return to his vehicle. Brazan followed him, trying to hit and scratch his neck. Gumbs got into his vehicle but Brazan tried to climb through the open driver's window to take the keys. Gumbs sprained his finger trying to block Brazan from taking his keys. Brazan punched Gumbs in the neck.

Brazan testified on his own behalf. He said he was in his house sleeping at 11:00 p.m. on February 19, 2016. He called Gumbs "a pathological liar."

The District Court ruled:

The court in consideration of the testimony of both witnesses does find Mr. Gumbs credible, although the defendant does deny categorically that the incident ever occurred. Therefore, the court does find there was sufficient evidence to sustain a conviction for assault in the third degree, that there was intentional, knowing, or reckless behavior on behalf of the defendant which caused bodily injury to the complaining witness. So therefore, the court does find the defendant guilty.

This appeal followed.

In 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. 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. Teale, 139 Hawai'i 351, 359, 390 P.3d 1238, 1246 (2017) (citations, brackets and quotation marks omitted). In this case Gumbs' testimony, viewed in the light most favorable to the

State, substantially supported the District Court's finding. The Judgment is affirmed.

DATED: Honolulu, Hawai'i, April 24, 2019.

On the briefs:

Phyllis J. Hironaka,  
Deputy Public Defender,  
for Defendant-Appellant.

  
Presiding Judge

Chad Kumagai,  
Deputy Prosecuting Attorney,  
City and County of Honolulu,  
for Plaintiff-Appellee.

  
Associate Judge

  
Associate Judge