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NO. CAAP-23-0000483

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
PETER K.K. KAMALII, also known as PIKA, Defendant-Appellant_

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CASE NO. 2CPC-22-0000693 (1))

SUMMARY DISPOSITION ORDER

(By: Leonard, Acting Chief Judge, Wadsworth and McCullen, JJ.)

Defendant-Appellant Peter K.K. Kamalii, also known as Pika (**Kamalii**) appeals from the July 21, 2023 Judgment; Conviction and Probation Sentence; Terms and Conditions of Probation; Notice of Entry (**Judgment**) entered by the Circuit Court of the Second Circuit (**Circuit Court**).¹ After a jury-waived trial, Kamalii was convicted of one count of Promoting a Dangerous Drug in the First Degree, in violation of Hawaii Revised Statutes (**HRS**) § 712-1241(1)(a)(i) (Supp. 2023) (**Promoting a Dangerous Drug First or Count 1**),² and one count of

¹ The Honorable Kirstin M. Hamman presided.

² HRS § 712-1241(1)(a)(i) states:

HRS § 712-1241 Promoting a dangerous drug in the first degree. (1) A person commits the offense of promoting
(continued...)

Promoting a Dangerous Drug in the Third Degree, in violation of HRS § 712-1243(1)(a)(i) (2014). Kamalii was sentenced to ten years of probation, with special terms and conditions that included serving a term of incarceration of two years.

Kamalii's Opening Brief fails to comply with important and helpful requirements set forth in Hawai'i Rules of Appellate Procedure Rule 28(b)(4), including that it does not include a statement of the points of error, does not state an alleged error by the Circuit Court, does not state where in the record the alleged error(s) occurred, and does not state where in the record Kamalii brought the alleged error(s) to the Circuit Court's attention.³ We nevertheless discern that Kamalii's appeal is based on the contention that he only had the methamphetamine at issue in Count 1 for a short period of time and he discarded it, so his possession was "transitory," and his conviction for transitory possession should be reversed.⁴

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 Kamalii's argument on appeal as follows:

²(...continued)

a dangerous drug in the first degree if the person knowingly:

(a) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of:
(i) One ounce or more, containing methamphetamine, heroin, morphine, or cocaine or any of their respective salts, isomers, and salts of isomers[.]

³ Kamalii is represented by counsel on appeal.

⁴ Kamalii makes no discernible argument concerning the other count, and therefore, any such argument is waived.

Kamalii's argument is without merit. The Circuit Court specifically found that the State proved beyond a reasonable doubt that Kamalii knowingly possessed the methamphetamine that was "in the box" based on evidence that included, *inter alia*, Kamalii's statements to the police that were more credible than his in-court statements. The Circuit Court found that Kamalii's possession was conscious and substantial. Viewing the evidence in the light most favorable to the prosecution, we conclude that there was substantial evidence to support the Circuit Court's findings and to support Kamalii's conviction of Promoting a Dangerous Drug First.⁵ See generally State v. Matavale, 115 Hawai'i 149, 157-58, 166 P.3d 322, 330-31 (2007) (regarding our standard of review).

For these reasons, the Circuit Court's July 21, 2023 Judgment is affirmed.

DATED: Honolulu, Hawai'i, June 28, 2024.

On the briefs:	/s/ Katherine G. Leonard Acting Chief Judge
Steven Slavitt, for Defendant-Appellant.	/s/ Clyde J. Wadsworth Associate Judge
Renee Ishikawa Delizo, Deputy Prosecuting Attorney, County of Maui, for Plaintiff-Appellee.	/s/ Sonja M.P. McCullen Associate Judge

⁵ In light of the Circuit Court's factual determinations, we do not address the viability of Kamalii's defense theory under Hawai'i law, but we note that it may be inconsistent with the Hawai'i Supreme Court's decision in State v. Hironaka, 99 Hawai'i 198, 205, 53 P.3d 806, 813 (2002); see also HRS § 702-202 (2014) (setting forth when possession is a voluntary act).