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NO. CAAP-23-0000719

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee,  
v.  
CHITO K. ASUNCION, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT  
(CASE NO. 3CPC-22-0000735)

**SUMMARY DISPOSITION ORDER**

(By: Hiraoka, Presiding Judge, Wadsworth and Nakasone, JJ.)

Chito K. **Asuncion** appeals from the Judgment of Conviction and Sentence entered by the Circuit Court of the Third Circuit on November 29, 2023.<sup>1</sup> He challenges his consecutive sentences. We affirm.

A grand jury indicted Asuncion for Attempted Murder in the First Degree (Hawaii Revised Statutes (**HRS**) §§ 705-500(2) & 707-701(1)(a)); Murder in the First Degree (HRS § 707-701(1)(a)); two counts of Murder in the Second Degree (HRS § 707-701.5(1)); and two counts of Attempted Murder in the Second Degree (HRS §§ 705-500(2) & 707-701.5(1)). Asuncion pleaded not guilty. On August 28, 2023, under a plea agreement, he admitted to causing the deaths of two people and causing serious bodily injury to two other people. He pleaded guilty to two counts of Murder in the Second Degree and two counts of Assault in the First Degree. On

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<sup>1</sup> The Honorable Robert D.S. Kim presided.

November 29, 2023, he was sentenced to life in prison with the possibility of parole on each of the murder counts and 10 years in prison on each of the assault counts, to be served consecutively. This appeal followed.

Asuncion raises a single point of error. He contends the circuit court did not adequately state its reasons for imposing four consecutive sentences. We review for abuse of discretion. State v. Bautista, 153 Hawai'i 284, 290, 535 P.3d 1029, 1035 (2023).

A trial court "must state on the record at the time of sentencing the reasons for imposing a consecutive sentence." Id. (quoting State v. Hussein, 122 Hawai'i 495, 510, 229 P.3d 313, 328 (2010)). It must "provide clearly articulated reasons for each and every consecutive sentence[,]" even if it uses the same factors to support multiple consecutive sentences. Bautista, 153 Hawai'i at 290-91, 535 P.3d at 1035-36 (cleaned up) (quoting State v. Sandoval, 149 Hawai'i 221, 236, 487 P.3d 308, 323 (2021)). That is because concurrent sentences are the default. Id. at 290, 535 P.3d at 1035 (citing HRS § 706-668.5(1) (Supp. 2015)).

Here, the trial court "adequately distinguish[ed] between the need for consecutive sentences and the sentence [the] defendant would have received under the presumption of concurrent sentencing." Id. (cleaned up). This case involved different events and multiple victims. See id. at 291, 535 P.3d at 1036. The court explained:

In this case the defendant pled guilty to two counts of Murder in the Second Degree and two counts of Assault in the First Degree. Defendant killed in cold blood Boyd Maygra and Brian Macauley. Defendant stabbed Gary Nakagawa and Alice Coleman and believed that he had killed them.

Mr. Macauley, age 62, was stabbed in the neck and other areas on May 17th, 2022 near the Kailua-Kona post office.

Eight days later Mr. Nakagawa, age 59, was stabbed on May 25th, 2022 in the area of 856 Kilauea Avenue, Hilo, Hawai'i. . . . Mr. Nakagawa was stabbed in the neck and the back.

Five days later after the second stabbing, on May 30th, 2022, Alice Coleman, age 70, had been stabbed on the left side of her throat. . . .

After that third incident eight days later on June 7, 2022 Boyd Maygra, age 48, was killed near Hale Halawai in Kailua-Kona, Hawai'i. He had been stabbed in the collar bone area and on the left side of his body.

All of the victims were houseless. We call them homeless, but they were only without a house. They were helpless when they were stabbed, generally sleeping, hurting no one, disturbing no one.

Defendant really didn't even know them. When arrested Mr. Asuncion said he killed them to get them off the street. He stated there were too many homeless and sought to kill them to get them off the street.

After citing HRS §§ 706-606 and 706-668.5, the court continued:

In this case the defendant with a use of a knife or similar weapon from May 17th, 2022 to June 7th, 2022, a very short period of time entered on a violent spree which resulted in death and serious injury.

During that short period of time across the island -- once in Kona, twice in Hilo and then back to Kona -- killed two people and seriously wounded two others without provocation while they were sleeping.

. . . .

In this case two harmless people were killed and two others seriously wounded with stab wounds to the neck or upper body area. . . .

. . . .

The Court finds and concludes that consecutive sentences would act as a deterrence to anyone who may believe that murder of multiple people and violent assault with deadly weapons will be tolerated under the law. It will not.

The imposition of consecutive sentences in this case will serve as a warning to all who are thinking of committing multiple violent felonies in our State it's not gonna be tolerated, and there's not gonna be any excuse especially where there is no remorse and justification.

. . . .

The Court finds that the defendant is a violent and deadly serial killer, and the Court is imposing consecutive sentence of life and other crimes to protect our community and to impose the maximum sentences authorized by me as a judge under Hawai'i law. I cannot understate how serious this case is to our community and to our people.

The trial court adequately stated its reasons for imposing consecutive sentences for each of the different events involving different victims. It acted within its discretion. The Judgment of Conviction and Sentence entered on November 29, 2023, is affirmed.

DATED: Honolulu, Hawai'i, August 20, 2024.

On the briefs:

Andrew M. Kennedy,  
for Defendant-Appellant.

/s/ Keith K. Hiraoka  
Presiding Judge

Charles E. Murray III,  
Deputy Prosecuting Attorney,  
County of Hawai'i,  
for Plaintiff-Appellee  
State of Hawai'i.

/s/ Clyde J. Wadsworth  
Associate Judge

/s/ Karen T. Nakasone  
Associate Judge