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NO. CAAP-25-0000334

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee,
v.
RICKY BALAJADIA, JR.,
also known as Ricky Brycen Balajadia, Jr.,
Defendant-Appellant.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CASE NO. 1CPC-23-0001184)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Ricky B. **Balajadia**, Jr. appeals from the Circuit Court of the First Circuit's¹ February 27, 2025 Judgment and Conviction of Sentence, convicting him of Attempted

¹ The Honorable Kevin A. Souza presided.

Escape in the Second Degree, in violation of Hawai'i Revised Statutes (**HRS**) § 705-500 (2014)² and HRS § 710-1021 (2014).³

On appeal, Balajadia asserts five points of error (**POE**) challenging the circuit court's (1) admission of evidence that he was in a fight prior to his attempted escape (POE A and C); (2) limiting instruction as to the fight evidence (POE B);

² HRS § 705-500, "Criminal attempt," provides:

- (1) A person is guilty of an attempt to commit a crime if the person:
 - (a) Intentionally engages in conduct which would constitute the crime if the attendant circumstances were as the person believes them to be; or
 - (b) Intentionally engages in conduct which, under the circumstances as the person believes them to be, constitutes a substantial step in a course of conduct intended to culminate in the person's commission of the crime.
- (2) When causing a particular result is an element of the crime, a person is guilty of an attempt to commit the crime if, acting with the state of mind required to establish liability with respect to the attendant circumstances specified in the definition of the crime, the person intentionally engages in conduct which is a substantial step in a course of conduct intended or known to cause such a result.
- (3) Conduct shall not be considered a substantial step under this section unless it is strongly corroborative of the defendant's criminal intent.

³ HRS § 710-1021, "Escape in the second degree," provides:

- (1) A person commits the offense of escape in the second degree if the person intentionally escapes from a correctional or detention facility or from custody.
- (2) Escape in the second degree is a class C felony.

and (3) imposition of consecutive terms of imprisonment (POE D and E).⁴

Upon careful review of the record and the briefs submitted by the parties, and having given due consideration to the issues raised and the arguments advanced, we resolve this appeal as discussed below and affirm.

While serving time in Hālawā Correctional Facility (**Hālawā**), Balajadia was involved in a fight with another inmate. He sustained a cut above his left eye for which he required stitches, and arrangements were made for two Adult Corrections Officers (**the Escorting Officers**) to transport Balajadia that day to Pali Momi Medical Center (**Pali Momi** or **the Hospital**).

⁴ Balajadia's five POE are presented as follows:

- A. "The Trial Court erred by allowing the prosecutor to introduce evidence regarding allegations that Balajadia was involved in a fight because that alleged 'fight' was irrelevant."
- B. "The Trial Court's recitation of a stipulation and it's [sic] 'fight' limiting [sic] instruction merged and allowed for the conclusion that Balajadia stipulated that he was in a 'fight' when in fact he objected to evidence at evidence [sic] regarding the alleged 'fight'."
- C. "Assuming relevance, allegations that Balajadia was in a fight created unfair prejudice that substantially outweighed any probative value."
- D. "The Trial Court erred in failing to articulate a basis and justification for its consecutive sentences."
- E. "The Trial Court erred in basing its sentence on uncharged and unadjudicated conduct."

(Formatting altered.)

After the emergency room physician saw Balajadia and was exiting the treatment room, Balajadia leapt off the patient bed and attempted to follow her, saying he had a question. One of the Escorting Officers stood between Balajadia and the physician and instructed him to return to the patient bed. Balajadia refused and continued forward. He attempted to lunge past the physician, and the Escorting Officers tackled him to the floor and returned him to the patient bed.

To further restrict Balajadia's mobility, the Escorting Officers attempted to move his hand restraints behind his back. In the process, Balajadia, still in leg restraints, tore away from the Escorting Officers' grip and ran out of the room. One of the Escorting Officers chased after Balajadia and tackled him in the hallway, and the other assisted in again restraining Balajadia.

After returning Balajadia to the patient bed, the physician stitched up his injury. He was subsequently returned to Hālawā without further incident.

Balajadia was charged by felony information with Attempted Escape in the Second Degree.

The State filed a notice of intent to adduce evidence that Balajadia "went into another inmate's cell and was involved in a fight with another inmate," and, "[a]s a result of the fight, [Balajadia] was taken to [Pali Momi]." The State argued

that the fight "was the means by which [Balajadia] made his way to the [H]ospital which allowed for the opportunity to attempt to escape." The State also argued that the fight "provide[d] a motive for escape," reasoning that "if you just lost a fight, you don't want to go back."

During a hearing on the matter, the circuit court made clear it was not going to allow evidence regarding Balajadia going into another inmate's cell or whether the fight was lost. The circuit court then ruled that the fight was "highly relevant" under Hawai'i Rules of Evidence (**HRE**) Rule 401, because (1) "it explain[ed] why Mr. Balajadia had to be transported to Pali Momi and why it is that he sustained injuries," and (2) without the explanation that the fight was with another inmate, the jury might speculate that Balajadia's injuries were caused by a correction officer or other staff at Hālawā.

The circuit court next determined that the probative value of the evidence was high for the reasons it previously stated, "and also given the State's theory of the case and a reasonable inference regarding motive for escape, although the State [was] not required to prove motive." The circuit court additionally addressed "the degree to which the evidence [would] rouse the jury to overmaster hostility towards" Balajadia, as argued by the defense. To that, the circuit court explained that it did not "believe that this particular evidence [would]

cause the jury to overmaster hostility toward" Balajadia. The circuit court then indicated it would give a cautionary instruction.

During closing arguments, the State mentioned the fight once, arguing "[Balajadia] was involved in a fight with another inmate. As a result, he received a cut above his left eye. The facility arranged for him to be transported" to Pali Momi.

After a one-day trial, the jury returned its verdict of guilty as charged. The circuit court sentenced Balajadia to a five-year indeterminate term of imprisonment, to be served consecutively to the sentences he was already serving.

Balajadia timely appealed.

(1) First, Balajadia challenges the admission of the fight evidence as irrelevant (POE A), and as inadmissible character evidence and unfairly prejudicial (POE C).

(a) Relevance (POE A)

Balajadia contends that his being in a fight was irrelevant to his escape charge and, thus, evidence of the fight was inadmissible under HRE Rule 401.

"All relevant evidence is admissible." HRE Rule 402. Evidence is relevant if it has "any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than

it would be without the evidence." HRE Rule 401. "The evidence need only be a building block of a prima facie case. It does not have to prove the case on its own." State v. Silva, 67 Haw. 581, 586, 698 P.2d 293, 297 (1985).

We review a trial court's relevance determination pursuant to HRE Rule 401 under the right/wrong standard. State v. Pulse, 83 Hawai'i 229, 247, 925 P.2d 797, 815 (1996).

As previously stated, the circuit court ruled that evidence of the fight was "highly relevant" under HRE Rule 401, because (1) "it explain[ed] why Mr. Balajadia had to be transported to Pali Momi and why it is that he sustained injuries," and (2) without the explanation that the fight was with another inmate, the jury might speculate that Balajadia's injuries were caused by a correction officer or other staff at Hālawā.

In other words, the fight evidence provided relevant context for why Balajadia was transported away from Hālawā and to Pali Momi, the place that set the stage for his escape attempt.

Thus, the circuit court did not err by determining the fight evidence was relevant. See Pulse, 83 Hawai'i at 247, 925 P.2d at 815; Silva, 67 Haw. at 586, 698 P.2d at 297.

(b) Character Evidence and Prejudice (POE C)

Balajadia further contends that, even if relevant, the fight evidence was inadmissible character evidence under HRE Rule 404 and more prejudicial than probative under HRE Rule 403.

"Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith." HRE Rule 404(b). However, prior acts may "be admissible where such evidence is probative of another fact that is of consequence to the determination of the action, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, modus operandi, or absence of mistake or accident." Id. This list is not exhaustive. State v. Cordeiro, 99 Hawai'i 390, 414, 56 P.3d 692, 716 (2002).

"Prior bad act evidence under HRE Rule 404(b) is admissible when it is (1) relevant and (2) more probative than prejudicial." State v. Behrendt, 124 Hawai'i 90, 102, 237 P.3d 1156, 1168 (2010) (citation modified). Under HRE Rule 403, "[a]lthough relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence."

"Evidentiary decisions based on HRE [Rule] 403, which require a 'judgment call' by the trial court, are reviewed for an abuse of discretion." Pulse, 83 Hawai'i at 247, 925 P.2d at 815. And because HRE Rule 404 requires application of HRE Rule 403, we also review those decisions for an abuse of discretion. State v. Richie, 88 Hawai'i 19, 37, 960 P.2d 1227, 1245 (1998) ("HRE 404 represents a particularized application of the principle of HRE 403, and we will employ the same abuse of discretion standard of review." (citation modified)).

At the hearing on the motion, the State argued that the fight "was the means by which [Balajadia] made his way to the [H]ospital which allowed for the opportunity to attempt to escape." The circuit court determined the probative value of the fight evidence was high, in part, "given the State's theory of the case and the reasonable inference regarding motive for escape, although the State [was] not required to prove motive." The circuit court then explained that it did not "believe that this particular evidence [would] cause the jury to overmaster hostility toward" Balajadia. And to guard against any prejudice, the circuit court indicated it would give a cautionary instruction.

The fight evidence was not admitted to show Balajadia's character as violent and that he acted in conformity therewith when he attempted to escape while at the hospital.

Instead, the fight was probative of affording Balajadia an opportunity to leave Hālawā and later attempt an escape. See HRE Rule 404(b) ("Evidence of other crimes, wrongs, or acts . . . may, however, be admissible where such evidence is probative of another fact that is of consequence to the determination of the action, such as proof of motive[or] opportunity[.]"). The fight's probative value of showing how Balajadia came to be transported from Hālawā to the Hospital was not substantially outweighed by the danger of unfair prejudice. See HRE Rule 403. Nothing about the fight between Balajadia and another inmate was so inflammatory that it would cause a jury to be hostile towards Balajadia or cause unfair prejudice.

Furthermore, the circuit court gave a limiting instruction regarding the fight evidence. As set forth in more detail below, the circuit court instructed the jury to consider the fight evidence "for the limited purpose of providing . . . a reason why [Balajadia] was transported to [Pali Momi] on the date in question, to receive medical treatment" and "not [to] consider this evidence for any other purpose." The jury is presumed to follow the court's instruction. Francis v. Franklin, 471 U.S. 307, 324 n.9 (1985); State v. Austin, 70 Haw. 300, 308, 769 P.2d 1098, 1102 (1989) ("A jury is presumed to follow a trial court's directive."). And the State mentioned the fight evidence only once in its closing argument to provide

context for why Balajadia was transported from Hālawā to Pali Momi.

Under these circumstances, the circuit court did not disregard rules or principles of law to Balajadia's substantial detriment and, thus, did not abuse its discretion. See Pulse, 83 Hawai'i at 247, 925 P.2d at 815.

(2) Next, Balajadia appears to argue that by providing a limiting instruction regarding a specific piece of admitted evidence (Balajadia was involved in a fight at Hālawā) shortly after reciting a stipulated fact (Balajadia was incarcerated at Hālawā on the date of the offense), the circuit court failed to adequately distinguish between the facts Balajadia stipulated to and the fight evidence (POE B).

"The circuit court has the duty and ultimate responsibility to instruct the jury on the proper and relevant law." State v. Lavoie, 145 Hawai'i 409, 433, 453 P.3d 229, 253 (2019); accord State v. Nichols, 111 Hawai'i 327, 336-37, 141 P.3d 974, 983-84 (2006). We note that Balajadia did not object to the circuit court's instruction and, thus, Balajadia's contention may be deemed waived. See Hawai'i Rules of Penal Procedure Rule 30(f) ("No party may assign as error the giving or the refusal to give, or the modification of, an instruction . . . unless the party objects thereto before the jury retires to consider its verdict, stating distinctly the matter to which

the party objects and the grounds of the objection."); Nichols, 111 Hawai'i at 337 n.6, 141 P.3d at 984 n.6 ("[T]here was and remains a presumption that unobjected-to jury instructions are correct; hence, the appellate court is under no duty to scour the record for error sua sponte"). Nonetheless, a review of the record shows that the circuit court did not err in its instruction to the jury.

The circuit court instructed the jury as to the stipulation that Balajadia was imprisoned at Hālawā:

All right, ladies and gentlemen of the jury, before we start the State's case there is a stipulation that I am going to be giving to you along with an instruction. All right. So please listen carefully.

Ladies and gentlemen of the jury, the parties have stipulated to the following facts and you must accept these following facts as having been conclusively proven for the purposes of this trial. All right.

And the facts are as follows: On October 21, 2022, the defendant, Ricky Balajadia, Jr., by order of a court of the State of [Hawai'i] was serving a sentence of imprisonment at [Hālawā] under the control of the Department of Public Safety. All right.

So you must accept those facts as having been conclusively proven for the purposes of this trial. These facts are being presented to -- stipulated to and being admitted into evidence only for the limited purpose of deciding whether or not the defendant committed the offense -- the charged offense of Attempted Escape in the Second Degree. Do not consider this evidence for any other purpose.

In particular, you shall not speculate or concern yourself at all with the reason why the defendant was in a correctional or detention facility at the time he allegedly committed this offense. Furthermore, you must not use this evidence to conclude that because the defendant was incarcerated, that he is therefore a person of bad character and therefore he must have committed the offense charged in this case. You cannot make those assumptions.

And in considering this evidence that has been stipulated to for the limited purpose for which it is offered, you must weigh it in the same manner you would all other evidence in this case and you must consider it along with all other evidence in this case. All right.

(Emphases added.)

The circuit court then indicated it was admitting evidence that Balajadia was transported to the hospital following a fight at Hālawā and instructed the jury to consider that evidence "only for the limited purpose of providing . . . a reason why [Balajadia] was transported to Pali Momi":

Additionally, you are about to hear evidence that the defendant was incarcerated, was in a fight or an altercation at [Hālawā]. Again, this evidence is being admitted only for the limited purpose of providing you with a reason why the defendant was transported to [Pali Momi] on the date in question, to receive medical treatment. Do not consider this evidence for any other purpose.

Again, you shall not speculate or concern yourself with what the fight or altercation was about, who started it, or what transpired. You must also not use this evidence to conclude that because the defendant was in a fight or altercation, that he is, again, a person of bad character and therefore must have committed the [offense] charged in this case. You cannot engage in that kind of thinking. All right.

In considering this evidence, again, of the fight or altercation, you must consider it along with all the other evidence presented and weigh it in the same manner you would all other items of evidence in this case. All right.

(Emphases added.)

While discussing the fight evidence, the circuit court stated, "you are about to hear evidence that the defendant was incarcerated," but then appeared to immediately correct itself by stating, "was in a fight or an altercation." The remaining instruction to the jury concerned the fight evidence. The

circuit court's instruction on the stipulated fact of Balajadia's imprisonment was sufficiently separate from its instruction on the fight evidence. Thus, there was no error here.

Balajadia also appears to argue that the limiting instruction regarding the fight should have been given to the jury prior to each witness's testimony. Balajadia does not provide any legal authority for this proposition, and this contention may be deemed waived. See Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 28(b)(7) (requiring opening briefs to include an argument section "containing the contentions of the appellant on the points presented and the reasons therefor, with citations to the authorities, statutes, and parts of the record relied on" and cautioning that "[p]oints not argued may be deemed waived" (emphasis added)).

Notwithstanding Balajadia's unsupported contention, the circuit court gave the limiting instruction on the fight evidence twice: once before the first witness testified and again repeating it before the jury entered its deliberations. We see no error in the timing of the circuit court's limiting instruction on the fight evidence.

(3) Finally, Balajadia contends the circuit court "erred in issuing consecutive sentences because it failed to provide an adequate basis for the consecutive sentence" (POE D)

and punished him for an uncharged crime — fighting in prison (POE E).

(a) Consecutive Sentence (POE D)

Balajadia's contention is unsupported by specific reasons or citations to the parts of the record he relies on, and this argument may be deemed waived. See HRAP Rule 28(b)(7). Moreover, a review of the record shows the circuit court articulated its reasons and provided a meaningful rationale for imposing a consecutive sentence.

The sentencing court "must state on the record at the time of sentencing the reasons for imposing a consecutive sentence." State v. Hussein, 122 Hawai'i 495, 510, 229 P.3d 313, 328 (2010).

Here, the circuit court pointed to Balajadia's criminal history, namely that, at twenty-nine years old, Balajadia had "six total convictions," three of which are "prior felony convictions for which he is currently serving indeterminate prison sentences after failing on probation." See HRS § 706-606(1) (2014) ("The court, in determining the particular sentence to be imposed shall consider . . . [t]he nature and circumstances of the offense and the history and characteristics of the defendant[.]"). The circuit court also acknowledged Balajadia's "long history of noncompliance with community supervision"; lack of "insight into [his] mental

health and substance abuse history"; denial of "any prior drug use in the pre-sentence report when prior pre-sentence reports tell a very different story"; and "tangential incoherent responses during his pre-sentence interview."

The circuit court explained that a concurrent sentence "would be little incentive for him and others similarly situated to not repeat the same conduct of attempting to escape from custody." The circuit court then explained that a consecutive sentence, on the other hand, "would send a clear message that attempting to escape [would] result in [Balajadia] being fully held accountable and would make [Balajadia] and others think twice before trying to escape."

After considering "the need for a sentence imposed to reflect the seriousness of the offense, to promote respect for the law, to provide a just punishment, to afford adequate deterrents to further criminal conduct, and to protect the public," see HRS § 706-606(2), the circuit court concluded that "[t]hese factors also mitigate in favor of a consecutive sentence."

Contrary to Balajadia's contention, the circuit court provided an adequate basis for running the Attempted-Escape sentence consecutively to the sentences Balajadia was already serving. See Hussein, 122 Hawai'i at 509-10, 229 P.3d at 327-28.

(b) Uncharged Crime (POE E)

"[A] judge cannot punish a defendant for an uncharged crime in the belief that it too deserves punishment," notwithstanding the judge's otherwise "broad discretion in imposing a sentence, and [ability to] consider the candor, conduct, remorse and background of the defendant as well as the circumstances of the crime and many other factors." State v. Nunes, 72 Haw. 521, 525, 824 P.2d 837, 840 (1992).

Here, Balajadia points to the following underlined statement from the circuit court during sentencing:

In looking at the nature and circumstances of this offense, at the time of the incident offense, which is Attempted Escape in the Second Degree, Mr. Balajadia was serving a concurrent five-year prison term for unauthorized control of a propelled vehicle in the first degree in 1CPC-21-0001258.

He was also serving a concurrent ten-year and five-year prison sentence for Burglary in the First Degree and Terroristic Threatening in the First Degree under 5CPC-19-0000199.

Additionally, at the time of the [instant] offense, the defendant had recently arrived at [Hālawā]. He did get into a fight with another inmate. And he needed to be treated for his injuries. And so he was transported to the [Pali Momi] in the Pearl Ridge area where he initially tried to follow a female doctor out of the emergency room bay. And according to the jury's verdict, [Balajadia] did attempt to escape.

(Emphasis added.)

Taken in context, the circuit court was reciting the facts surrounding the offense while considering the nature and circumstances of the offense. We do not construe the circuit

court's statement as punishing Balajadia for an uncharged crime.

See Nunes, 72 Haw. at 525, 824 P.2d at 840.

Based on the foregoing, we affirm the circuit court's
February 27, 2025 Judgment and Conviction of Sentence.

DATED: Honolulu, Hawai'i, August 31, 2026.

On the briefs:

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/s/ Karen T. Nakasone
Chief Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Sonja M.P. McCullen
Associate Judge