

NO. 22254

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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STATE OF HAWAI'I, Plaintiff-Appellee,

vs.

JOEL K. YOUNG, Defendant-Appellant.

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APPEAL FROM THE FIRST CIRCUIT COURT  
(CR. NO. 98-0500)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama,  
Ramil, and Acoba, JJ.)

The defendant-appellant Joel K. Young appeals from the judgment of the first circuit court convicting him of and sentencing him for the offense of manslaughter based on reckless conduct, in violation of Hawai'i Revised Statutes (HRS) § 707-702(1)(a) (1993). On appeal, Young contends that the circuit court erred in failing to instruct the jury regarding the included offenses of first degree assault, pursuant to HRS § 701-710(1) (1993), and "intentional or knowing" second degree assault, pursuant to HRS § 701-711(1)(a) (1993), and plainly erred in failing to instruct the jury regarding the included offenses of "reckless" second degree assault, pursuant to HRS § 701-711(1)(b) (1993), and reckless endangering in the second degree, pursuant to HRS § 707-714(1) (1993). Young also asserts that the circuit court's jury instructions regarding the requisite state of mind necessary to convict of the charged offense of second degree murder, see HRS § 707-701.5 (1993), and the included offense of reckless manslaughter were plainly erroneous.

Upon carefully reviewing 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 hold as follows. We need not decide whether first degree assault (a class B felony, see HRS § 707-710(2) (1993)), either form of second degree assault (class C felonies, see HRS § 707-711(2) (1993)), and second degree reckless endangering (a misdemeanor, see HRS § 707-714(3) (1993)) are, pursuant to HRS § 701-109 (1993), included offenses of second degree murder or whether there was a rational basis in the record to warrant acquittal of second degree murder, as well as the included offenses of manslaughter based upon extreme mental or emotional distress and reckless manslaughter, upon both of which the jury was instructed, but, at the same time, to warrant conviction of any of the purported lesser included offenses, because we hold that the circuit court's failure to instruct the jury regarding the purported lesser included offenses was harmless beyond a reasonable doubt inasmuch as the jury convicted Young of a greater included offense, to wit, reckless manslaughter, a class A felony, see HRS § 707-702(3) (1993 & Supp. 2000). See, e.g., State v. Haanio, 94 Hawai'i 405, 415-16, 16 P.3d 246, 256-57 (2001) (holding that failure to instruct the jury regarding included offenses having a rational basis in the evidence is harmless error if jury convicts defendant of the charged, or of a greater included, offense); State v. Holbron, 80 Hawai'i 27, 47, 904 P.2d 912, 932 (1995) (holding that erroneous instruction on nonexistent included offense of "attempted reckless manslaughter" was harmless beyond a reasonable doubt because the jury convicted defendant of attempted second degree murder, the charged offense). Second, we hold that the circuit court's jury

instructions regarding the requisite state of mind necessary for conviction of second degree murder and reckless manslaughter were not prejudicially insufficient, erroneous, inconsistent, or misleading and, thus, were not plainly erroneous. Therefore,

IT IS HEREBY ORDERED that the first circuit court's judgment of conviction and sentence, filed on January 15, 1999, from which the appeal is taken is affirmed.

DATED: Honolulu, Hawai'i, March 28, 2001.

On the briefs:

Joyce K. Matsumori-Hoshijo  
(Deputy Public Defender),  
for the defendant-appellant,  
Joel K. Young

James M. Anderson (Deputy  
Prosecuting Attorney), for  
the plaintiff-appellee,  
State of Hawai'i