

CONCURRING OPINION BY RAMIL, J.

_____The majority's analysis does not yield a result apparently inconsistent with the legislative purpose and design of Hawai'i Revised Statute (HRS) § 707-734 (1993). Accordingly, I concur with the majority that a conviction under the statute requires proof beyond a reasonable doubt that "it was Defendant's conscious object to engage in the exposure[,] " and "that Defendant was aware, believed, or hoped that the other person was not married to him and was likely to be affronted." Majority at 13, 14.

As I have stated, I believe that this court's foremost obligation is to ascertain and give effect to the intent of the legislature. State v. Dudoit, 90 Hawai'i 262, 978 P.2d 700 (1999) (Ramil, J., dissenting). And this court has long recognized the "intent of the legislature" to be the "paramount guide" in statutory interpretation. State v. Prevo, 44 Haw. 665, 668, 361 P.2d 1044, 1047 (1961). While rules of statutory construction may be utilized to ascertain and implement legislative intent, "they may not be used to deflect legislative purpose and design." State v. Murray, 63 Haw. 12, 19, 621 P.2d 334, 339 (1980) (citing State v. Smith, 59 Haw. 456, 461-62, 583 P.2d 337, 341-42 (1978); Prevo, 44 Haw. at 668-69, 361 P.2d at 1047)).

I agree that "despite the comments regarding nude sunbathing in the 1991 legislative committee report, it is not at all evident from the statutory language ultimately enacted that

the legislature meant to include all nude sunbathing within the proscription of HRS § 707-734." Majority at 11. Accordingly, I concur with the result reached by the majority's interpretation of HRS § 707-734 and in the opinion.