

NO. 22797

IN THE SUPREME COURT OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee

vs.

JAMES L. W. KANE, III, aka PRESCHOOL, Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 97-3093)

SUMMARY DISPOSITION ORDER

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

Defendant-appellant James L. W. Kane, III appeals from the first circuit court's¹ judgment of conviction of murder in the second degree, in violation of Hawai'i Revised Statutes (HRS) § 707-701.5 (1993), possession of a firearm by a person convicted of certain crimes, in violation of HRS § 134-7(b) and (h) (Supp. 1999), possession of ammunition by a person convicted of certain crimes, in violation of HRS § 134-7(b) and (h), and place to keep firearm or revolver, in violation of HRS § 134-6(c) and (e) (Supp. 1999). On appeal, Kane alleges that the trial court erred in denying his motion to suppress his (1) pre-Miranda statement and (2) statement to the police.

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

¹ The Honorable Dexter Del Rosario presided over this case.

hold that because (1) (a) Kane's purported pre-Miranda statement was made after Kane was properly informed of his Miranda rights and had waived effectuation of them, see State v. Henderson, 80 Hawai'i 439, 442, 911 P.2d 74, 77 (1996), and (b) even if such statement were made prior to his waiver of effectuation of his Miranda rights, it was not the product of custodial interrogation, see State v. Ikaika, 67 Haw. 563, 567, 698 P.2d 281, 284 (1985) (citing Rhode Island v. Innis, 446 U.S. 291, 301-02 (1980)); and (2) Kane voluntarily waived effectuation of his Miranda rights when making his statement to the police, see State v. Buch, 83 Hawai'i 308, 322, 926 P.2d 599, 613 (1996), the circuit court properly denied Kane's motion to suppress.

Accordingly,

IT IS HEREBY ORDERED that the judgment of conviction and sentence from which the appeal is taken are affirmed.

DATED: Honolulu, Hawai'i, June 13, 2001.

On the briefs:

Arthur E. Ross
for Defendant-Appellant
James L. W. Kane, III

Mark J. Bennett,
Special Deputy Attorney
General, for Plaintiff-
Appellee State of Hawai'i