

NO. 23129

IN THE SUPREME COURT OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellant,

vs.

SERENA AHUNA, Defendant-Appellee,

and

RANNETTE OGA, Defendant.

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 94-0751)

SUMMARY DISPOSITION ORDER

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

The plaintiff-appellant State of Hawaii (hereinafter, "the prosecution") appeals from the first circuit court's order, filed on January 7, 2000, granting the defendant-appellee Serena Ahuna's motion for clarification of sentence. On appeal, the prosecution contends that the circuit court imposed an illegal sentence by granting Ahuna "time-served credit" in the present matter, Cr. No. 94-0751, for time actually served in connection with an unrelated criminal matter, Cr. No. 97-1038.

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 that the circuit court imposed an illegal sentence when it granted Ahuna credit in the present matter for time served in connection with an unrelated criminal matter. See State v. March, 94 Hawai'i 250, 254-55, 11 P.3d 1094, 1098-99 (2000)

(holding that Hawai'i Revised Statutes § 706-671(1) (1993) does not authorize grant of credit for time served in connection with offenses unrelated to that for which sentence is imposed and, thus, that "a sentence that credits [a d]efendant with the time served for an unrelated offense is illegal").

Ahuna's contention that the disputed period of detention was directly related to the present matter is without merit. Her incarceration with regard to Cr. No. 97-1038 did not automatically render her "surrendered" for the purposes of discharging her bail bond in Cr. No. 94-0751. Absent any indication in the record that she was indeed "surrendered" with respect to Cr. No. 94-0751 (for example, by the discharge of her bail bond surety pursuant to HRS § 804-14 (1993)), we cannot say that the time served between October 24, 1997 and April 1, 1998 was in connection with the present matter. Therefore,

IT IS HEREBY ORDERED that the first circuit court's order, filed on January 7, 2000, granting Ahuna's motion for clarification of sentence, from which the appeal is taken is reversed.

DATED: Honolulu, Hawai'i, January 22, 2001.

On the briefs:

Caroline M. Mee (Deputy
Prosecuting Attorney),
for the plaintiff-appellant,
State of Hawai'i

David A. Fisher (Deputy
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defendant-appellee,