

NO. 23137

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee

vs.

TERRY M. TURNER, Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 98-1231)

SUMMARY DISPOSITION ORDER

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

Defendant-appellant Terry M. Turner appeals from the January 12, 2000 judgment of conviction and probation of the first circuit court, The Honorable Sandra Simms presiding, adjudging him guilty of promoting a dangerous drug in the third degree in violation of Hawai'i Revised Statutes (HRS) § 712-1243 (1993).¹ On appeal, Turner argues that the circuit court: (1) lacked jurisdiction over him; (2) committed plain error when it failed to ensure that Turner understood the nature of the charges against him; and (3) erred when it sentenced Turner without accepting his no contest plea.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the issues raised and the arguments² made by the parties, we hold that: (1) the circuit court had jurisdiction over this case, inasmuch as the charge of promoting a dangerous drug in the third

¹ HRS § 712-1243 provides in relevant part that "a person commits the offense of promoting a dangerous drug in the third degree if the person knowingly possesses any dangerous drug in any amount."

² Oral argument on the merits was heard on July 3, 2002.

degree is a class C felony, and, contrary to Turner's argument, this case did not involve a civil commitment, see HRS § 603-21.5 (Supp. 2001); (2) the record indicates that Turner's plea was knowing and voluntary and that the trial court engaged in a colloquy sufficient to establish that Turner understood the charges against him; and (3) the trial court impliedly accepted Turner's no contest plea when it entered a judgment of guilt.

THEREFORE, IT IS HEREBY ORDERED that the circuit court's judgment of conviction is affirmed.

DATED: Honolulu, Hawai'i, August 12, 2002.

Edward K. Harada, (David A.
Fisher, with him on the briefs)
Deputy Public Defenders,
for defendant-appellant

Bryan K. Sano, Deputy
Prosecuting Attorney,
for plaintiff-appellee