

NO. 23602

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellant

vs.

MICHAEL MURAKAMI, Defendant-Appellee

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 99-1297)

SUMMARY DISPOSITION ORDER

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

Plaintiff-appellant State of Hawai'i ("the prosecution") appeals from the first circuit court's findings of fact, conclusions of law, and order granting motion to suppress statements, filed on June 20, 2000.¹ On appeal, the prosecution argues that the circuit court erred in (1) finding that Detective Kathleen Osmond's statement to defendant-appellee Michael Murakami was misleading and inaccurate and (2) concluding that Murakami did not voluntarily waive effectuation of his Miranda rights.

Upon careful review of the record and briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we hold

¹The Honorable Michael A. Town presided over this trial.

that the circuit court did not err in concluding that (1) Osmond's statement to Murakami was misleading and inaccurate inasmuch as such finding was supported by substantial evidence in the record and (2) Murakami did not voluntarily waive effectuation of his Miranda rights inasmuch as Osmond failed to "either cease all questioning or seek non-substantive clarification" of Murakami's ambiguous response regarding his right to counsel, as required by State v. Hoey, 77 Hawai'i 17, 36, 881 P.2d 504, 523 (1994). Accordingly,

IT IS HEREBY ORDERED that the findings of fact, conclusions of law, and order granting motion to suppress statements from which the appeal is taken are affirmed.

DATED: Honolulu, Hawai'i, June 7, 2001.

On the briefs:

Caroline M. Mee, Deputy
Prosecuting Attorney,
for Plaintiff-Appellant
State of Hawai'i

Nelson W.S. Goo,
for Defendant-Appellee
Michael Murakami