

NO. 23617

IN THE SUPREME COURT OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee

vs.

ADDISON CABANTING, also known as Med, Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 99-1855)

SUMMARY DISPOSITION ORDER

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

Defendant-appellant Addison Cabanting appeals from the judgment of the first circuit court, the Honorable Karen S.S. Ahn presiding, convicting him of manslaughter, in violation of Hawaii Revised Statutes § 707-702 (1993 & Supp. 2000).¹ On appeal, he argues that the trial court erroneously: (1) denied his motion for judgments of acquittal because the evidence adduced at trial was insufficient to prove that he acted recklessly in causing the death of Alexander Faleafine; and (2) denied his motion for mistrial when it (a) sua sponte informed the prosecution's witness of his privilege against self-incrimination, and (b) failed to describe the prosecutor's objectionable question adequately when it instructed the jury to disregard a query regarding the granting of immunity.

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

¹ HRS § 707-702 provides in relevant part:

- (1) A person commits the offense of manslaughter if:
- (a) He recklessly causes the death of another person [.]

resolve defendant-appellant's arguments as follows: (1) the evidence adduced at trial was sufficient to support the jury's finding, and State v. Ray, 635 A.2d 777 (Conn. 1993), is distinguishable from the present case; and (2) the trial court did not err when it denied his motion for mistrial because (a) the trial court did not abuse its discretion when it sua sponte informed Agarma of his constitutional right against self-incrimination, and (b) the court instruction sufficiently identified the question to be disregarded, and, assuming arguendo, that the trial court erred, Cabanting fails to illustrate how his substantial rights were affected because evidence of an immunity agreement may be elicited by the prosecutor on direct examination so that the jury may assess the credibility of the witnesses the government asks them to believe[,] United States v. Halbert, 640 F.2d 1000, 1004 (9th Cir. 1981).

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

DATED: Honolulu, Hawaii, October 18, 2001.

On the briefs:

Deborah L. Kim, Deputy
Public Defender, for
defendant-appellant

Loren J. Thomas, Deputy
Prosecuting Attorney,
for plaintiff-appellee