

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 23703

IN THE SUPREME COURT OF THE STATE OF HAWAII

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STATE OF HAWAII, Plaintiff-Appellee

vs.

LOUIS K. WATSON, Defendant-Appellant

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APPEAL FROM THE SECOND CIRCUIT COURT  
(CR. NO. 98-0696(2))

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, and Nakayama, JJ.,  
Circuit Judge Kochi, in place of Acoba, J., unavailable,  
and Circuit Judge Del Rosario, assigned by reason of vacancy)

Defendant-appellant Louis Kalani Watson (Watson) appeals from the June 29, 2000 judgment of the circuit court of the second circuit, the Honorable Shackley F. Raffetto presiding, convicting Watson of and sentencing him for (1) promoting a dangerous drug in the first degree, in violation of Hawai'i Revised Statutes (HRS) § 712-1241(1)(a)(i) (1993),<sup>1</sup> and (2) two counts of unlawful use of drug paraphernalia, in violation of HRS § 329-43.5(a) (1993).<sup>2</sup>

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<sup>1</sup> HRS § 712-1241(1)(a)(i) provides:

- (1) A person commits the offense of promoting a dangerous drug in the first degree if the person knowingly:
  - (a) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of:
    - (i) One ounce or more, containing methamphetamine, heroin, morphine, or cocaine or any of their respective salts, isomers, and salts of isomers[.]

<sup>2</sup> HRS § 329-43.5(a) provides:

It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or

(continued...)

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On appeal, Watson argues that: (1) the circuit court erred in denying his motion to suppress evidence because the search warrant did not authorize the search of Watson's hotel room; (2) the circuit court erred by admitting his statements because the record failed to establish that he voluntarily, knowingly, and intelligently waived his constitutional right to remain silent; and (3) he was denied the effective assistance of counsel because trial counsel failed to (a) move to suppress his statements, (b) argue "available applicable law" during the voluntariness hearing, (c) investigate possible witnesses, and (d) call Kale Ornellas (Ornellas) as a witness.

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and issues raised, we hold that: (1) the circuit court did not err by denying Watson's motion to suppress evidence because the search warrant described the room to be searched with sufficient definiteness so as to preclude a search of other rooms in the hotel, see State v. Anderson, 84 Hawai'i 462, 935 P.2d 1007 (1997), State v. Matsunaga, 82 Hawai'i 162, 920 P.2d 376 (App 1996); (2) the circuit court did not abuse its discretion by ruling that Watson's statements were admissible following an HRS § 621-26 voluntariness hearing inasmuch as the record was devoid of any evidence that Watson was coerced, threatened, or promised anything, HRS § 621-26, see State v. Bowe, 77 Hawai'i 51, 61, 881 P.2d 538, 549 (1994) (Klein, J.,

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<sup>2</sup>(...continued)

otherwise introduce into the human body a controlled substance in violation of this chapter. Any person who violates this section is guilty of a class C felony and upon conviction may be imprisoned pursuant to section 706-660 and, if appropriate as provided in section 706-641, fined pursuant to section 706-640.

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concurring); and (3) Watson failed to establish ineffective assistance of counsel because (a) although failure to file a motion to suppress Watson's statements may have reflected a lack of judgment and diligence, it did not result in a withdrawal or substantial impairment of a potentially meritorious defense inasmuch as constitutional issues were raised by trial counsel and ruled on by the circuit court, see State v. Richie, 88 Hawai'i 19, 39, 960 P.2d 1227, 1247 (1998), (b) Watson failed to specify the "available applicable law" trial counsel should have argued at the voluntariness hearing leaving this court unable to make a determination, (c) Watson failed to support his failure to investigate claim with sworn statements from potential witnesses, see Richie, 88 Hawai'i at 39, 960 P.2d at 1247, and (d) trial counsel's decision to forgo Ornellas as a witness was not a result of a conflict of interest, but appears to be a strategic decision inasmuch as Ornellas's story was inconsistent and trial counsel believed it would damage Watson's defense, and, thus, will not be second-guessed by this court, see id. at 40, 960 P.2d at 1248.

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

DATED: Honolulu, Hawai'i, September 18, 2003.

On the briefs:

James S. Tabe,  
Deputy Public Defender,  
for defendant-appellant

Arleen Y. Watanabe,  
Deputy Prosecuting Attorney,  
for plaintiff-appellee