

NO. 23834

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee

vs.

MARK W. CAMACHO, Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 99-2156)

SUMMARY DISPOSTION ORDER

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

Defendant-appellant Mark Camacho (Camacho) appeals from the judgment of the first circuit, the Honorable Karen S. S. Ahn presiding, convicting him of robbery in the first degree in violation of Hawai'i Revised Statutes (HRS) § 708-840(1)(b)(ii) (1993). On appeal, Camacho argues that the circuit court erred when it denied his: (1) motion for judgment of acquittal because the evidence was insufficient to sustain a conviction; (2) motion for a mistrial because his right to remain silent was violated; (3) motion for mistrial due to prosecutorial misconduct; and (4) motion to suppress in-court identification.

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 hold that the court did not err in denying Camacho's: (1) motion for a judgment of acquittal because the evidence presented was sufficient to establish that Camacho demanded money, threatened the use of imminent force with a gun and/or knife, and applied a chokehold in the furtherance of the crime, see State v. Quitog, 85 Hawai'i 128, 145, 938 P.2d 559, 576 (1997); see also State v.

Haanio, 94 Hawai'i 405, 419, 16 P.3d 246, 260 (2001); (2) motion for a mistrial because his right to remain silent was not violated because there was no custodial interrogation, and Camacho voluntarily chose to testify, see State v. Pemberton, 71 Haw. 466, 474, 796 P.2d 80, 84 (1990); (3) motion for a mistrial because the prosecution properly questioned Camacho's credibility during cross-examination and made reasonable inferences during closing arguments, see State v. Apilando, 79 Hawai'i 128, 142, 900 P.2d 135, 149 (1995); see also State v. Clark, 83 Hawai'i 289, 304, 926 P.2d 194, 209 (1996); and (4) motion for suppression of in-court identification because the photo array identification was not impermissibly suggestive. See State v. Araki, 82 Hawai'i 474, 484, 923 P.2d 891, 901 (1996). Therefore,

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

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

On the briefs:

Richard S. Kawana
for defendant-appellant

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