

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 24273

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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STATE OF HAWAI'I, Plaintiff-Appellee

vs.

WOOLSEY RICE, JR., Defendant-Appellant

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APPEAL FROM THE FIRST CIRCUIT COURT  
(CR. NO. 98-0162)

SUMMARY DISPOSITION ORDER

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

Defendant-appellant Woolsey Rice, Jr. (Rice) appeals from the April 24, 2001 order of the circuit court of the first circuit, the Honorable Frances Q.F. Wong presiding, amending the circuit court's January 30, 2001 resentencing and revocation of probation order and resentencing Rice to five years' probation, subject to the special conditions that he, inter alia, (1) participate satisfactorily in the Hawaii Sex Offender Treatment Program (HSOTP) and obtain and maintain sex offender treatment, and (2) refrain from contacting any minor child without the permission of his probation officer based on his conviction of kidnapping, in violation of Hawai'i Revised Statutes (HRS) § 707-720(1)(d) (1993).<sup>1</sup> On appeal, Rice argues that the circuit court (1) violated his right to due process and imposed an illegal sentence when it ordered him to participate in the HSOTP and obtain and maintain sex offender treatment, and (2) erred in ordering that he have no contact with any minor child.

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<sup>1</sup> HRS § 707-720(1)(d) provides that "[a] person commits the offense of kidnapping if the person intentionally or knowingly restrains another person with intent to . . . [i]nflict bodily injury upon that person or subject that person to a sexual offense[.]"

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Upon carefully reviewing the record and the briefs submitted and having given due consideration to the issues raised and arguments advanced, we initially hold that the circuit court did not abuse its discretion when it ordered Rice to participate in the HSOTP and obtain and maintain sex offender treatment, inasmuch as (1) Rice knowingly and voluntarily entered his guilty plea and acknowledged that he understood its consequences, (2) the terms of Rice's plea agreement expressly addressed Rice's participation in sex offender assessment and treatment, if necessary, (3) at his change of plea hearing, Rice acknowledged to the circuit court that he agreed to sex offender assessment and treatment, if necessary, as part of his plea agreement, (4) the circuit court gave Rice the benefit of his plea agreement when it accepted the terms of the plea agreement under Hawai'i Rules of Penal Procedure Rule 11, and (5) Rice never moved to withdraw his guilty plea and never argued that his guilty plea was not made knowingly, intelligently, or voluntarily. See State v. Domingo, 82 Hawai'i 265, 921 P.2d 1166 (1996); State v. Adams, 76 Hawai'i 408, 879 P.2d 513 (1994); State v. Costa, 64 Haw. 564, 644 P.2d 1329 (1982). We further hold that: (1) the circuit court did not impose an illegal sentence and violate Rice's right to due process when it ordered Rice, as a special condition of his probation sentence, to participate satisfactorily in the HSOTP and obtain and maintain sex offender treatment, inasmuch as (a) Rice's sentence fell within the prescribed statutory provisions for kidnapping as a class B felony, see HRS §§ 706-620, 706-624, 706-625, and 706-660, (b) the circuit court did not classify Rice a "sex offender" and did not order him to register as a sex offender, (c) Rice's sentence was consistent with the

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terms of his plea agreement, and (d) Rice's sentence was reasonably related to "[t]he nature and circumstances of the offense[,]" the need to reflect the seriousness of the offense, the need to provide Rice with "correctional treatment in the most effective manner," and the need to deter Rice from further criminal conduct, see HRS §§ 706-606 and 706-624; and (2) the circuit court did not abuse its discretion when it ordered Rice, as a special condition of his probation, to refrain from contacting any minor child without the permission of his probation officer, inasmuch as the circuit court acted within its discretion to impose such condition based on the seriousness of Rice's offense, his positive drug test on April 24, 2000, and his admission that he had an "ice" addiction and needed treatment, see HRS §§ 706-620 and 706-624(2); State v. Young, 93 Hawai'i 224, 999 P.2d 230 (2000); State v. Kumukau, 71 Haw. 218, 787 P.2d 682 (1990); State v. Fry, 61 Haw. 226, 602 P.2d 13 (1979).

Therefore,

IT IS HEREBY ORDERED that the circuit court's April 24, 2001 amended resentencing order, from which the appeal is taken, is affirmed.

DATED: Honolulu, Hawai'i, December 13, 2004.

On the briefs:

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for the defendant-appellant  
Woolsey Rice, Jr.

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State of Hawai'i