

DISSENTING OPINION OF ACOBA, J.

Intent is inferred from the surrounding circumstances. See State v. Kahinu, 53 Haw. 646, 648, 500 P.2d 747, 749 (1972) ("intent . . . can be established by inference from the surrounding circumstances" (citations omitted)). The family court of the second circuit (the court) found the testimony of Douglas Myers, the father of Defendant-Appellant Spencer Myers (Defendant), and Marina Yamada, Defendant's girlfriend, to be credible. Marina indicated that Douglas shoved Defendant and Defendant wrestled Douglas to the ground to stop him. Douglas indicated he could not recall whether he shoved Defendant.

On appeal the question "is whether, viewing the evidence in the light most favorable to the [prosecution], there is substantial evidence to support the conclusion of the trier of fact." State v. Sujohn, 5 Haw. App. 459, 461, 697 P.2d 1143, 1145 (1985) (quoting State v. Tamura, 63 Haw. 636, 637, 633 P.2d 1115, 1117 (1981) (citations omitted)). "Substantial evidence" is "credible evidence which is of sufficient quality and probative value to enable a person of reasonable caution to support a conclusion." State v. Eastman, 81 Hawai'i 131, 135, 913 P.2d 57, 61 (1996) (quoting State v. Pone, 78 Hawai'i 262, 265, 892 P.2d 455, 458 (1995) (other citations omitted) (brackets omitted)).

The credible evidence, as identified by the court, would not warrant a person "of reasonable caution" id. to

conclude that Defendant "intentionally, knowing, or recklessly" physically abused, id. at 137-40, 913 P2d at 65-66, i.e., "maltreat[ed Douglas] in such a manner as to cause injury, hurt, or damage to [his] body." State v. Canady, 80 Hawai'i 469, 474, 911 P.2d 104, 109 (App. 1996) (citations omitted). The credible testimony as announced by the court established as material facts that Douglas shoved Defendant and Defendant grabbed Douglas to stop him. Under these circumstances, there was not substantial evidence which would enable a person of reasonable caution to support the conclusion that Defendant intentionally, knowingly, or recklessly physically abused Douglas.