

NO. 24590
IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee,

vs.

YOLANDA C. BIENIASZ, Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(CR. No. 01040867)

SUMMARY DISPOSITION ORDER

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

The defendant-appellant Yolanda C. Bieniasz appeals from the judgment of the district court of the first circuit, the Honorable Leslie A. Hayashi presiding, convicting her of and sentencing her for the offense of prostitution, in violation of Hawai'i Revised Statutes (HRS) § 712-1200(1) (1993).¹ Bieniasz argues that the district court erred (1) in denying her motion for judgment of acquittal, on the basis that there was insufficient evidence to support a prima facie case of prostitution, and (2) in finding her guilty of prostitution, on the basis that there was insufficient evidence adduced to support a finding of guilt.

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we affirm the district court's judgment of conviction and sentence.

¹ HRS § 712-1200(1) provides that "a person commits the offense of prostitution if the person engages in, or agrees or offers to engage in, sexual conduct with another person for a fee."

The prosecution adduced substantial evidence, see State v. Batson, 73 Haw. 236, 248-49, 831 P.2d 924, 931 (1992), that Bieniasz asked Officer Tallion to buy her four drinks, rubbed Officer Tallion's penis through his pants when he hesitated to buy the third and fourth drinks, received a marker for each of the four drinks that Officer Tallion purchased for her, and that it was the practice of the club to pay hostesses a fee based on the number of markers that they obtained. Consequently, giving full play to the right of the finder of fact to "draw all reasonable and legitimate inferences and deductions from the evidence adduced," see Batson, 73 Haw. at 245-46, 831 P.2d at 930, the district court did not clearly err in denying Bieniesz's motion for judgment of acquittal or in finding her guilty of prostitution, on the basis that she engaged in sexual contact for a fee. Therefore,

IT IS HEREBY ORDERED that the district court's judgment and sentence from which the appeal is taken are affirmed.

DATED: Honolulu, Hawai'i, September 18, 2002.

Willaim A. Harrison
(Harrison & Matsuoka),
for the defendant-appellant
Yolanda C. Bieniasz

Don Fudo (DPA) (Bryan K. Sano,
on the brief), for the
plaintiff-appellee,
State of Hawai'i