

NO. 24654

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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STATE OF HAWAI'I, Plaintiff-Appellant

vs.

RICKY K. INOUE, Defendant-Appellee

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APPEAL FROM THE FIRST CIRCUIT COURT  
(CR. NO. 01-1-1305)

SUMMARY DISPOSITION ORDER

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

In accordance with Hawai'i Rules of Appellate Procedure Rule 35, and after carefully reviewing the record and the briefs submitted by the parties, and duly considering and analyzing the law relevant to the arguments and issues raised by the parties, we hold that: (1) the findings of fact, conclusions of law and order of the circuit court of the first circuit (the court)<sup>1</sup> granting the motion to suppress evidence filed by Defendant-Appellee Ricky K. Inouye (Defendant) were sufficient to establish that there was reasonable suspicion to believe criminal activity was afoot and that Defendant was armed and dangerous; (2) however, the court weighed the credibility of the witnesses's testimonies and determined that the police did not conduct a pat down search of Defendant before seizing the contraband, see State v. Vinuya, 96 Hawai'i 472, 481, 32 P.3d 116, 125 (App. 2001) ("[M]atters related to the credibility of witnesses and the weight to be given to the evidence are generally left to the factfinder. The appellate court will neither reconcile conflicting evidence nor interfere with the decision of the trier of fact based on the witnesses' credibility or the weight of the

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<sup>1</sup> The Honorable Wilfred K. Watanabe presided over this matter.

evidence." (Quoting State v. Mitchell, 94 Hawai'i 388, 393, 15 P.3d 314, 319 (App. 2000) (citations omitted).)); and (3) therefore, the court did not err in concluding that Defendant's right to freedom from unreasonable searches was violated and in suppressing the contraband on the ground that the police searched Defendant's pocket without first conducting a pat down search of him. See State v. Ramos, 93 Hawai'i 502, 508, 6 P.3d 374, 380 (App. 2000) ("Such a search is 'strictly limited to a pat down of outer clothing for the discovery of weapons if the officer reasonably believes the person stopped is armed and presently dangerous.'") (Quoting State v. Melear, 63 Haw. 488, 494, 630 P.2d 619, 624 (1981))). Therefore,

IT IS HEREBY ORDERED that the court's Findings of Fact, Conclusions of Law, and Order Granting Defendant's Motion to Suppress Evidence filed on October 8, 2001, from which the appeal is taken, is affirmed.

DATED: Honolulu, Hawai'i, August 26, 2002.

On the briefs:

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Prosecuting Attorney,  
City and County of Honolulu,  
for plaintiff-appellant.

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Deputy Public Defender,  
for defendant-appellee.