

IN THE SUPREME COURT OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee,

vs.

CHEYENNE MAKALII, Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(CR. HPD NO. 01-370370)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, and Nakayama, JJ., and
Ramil, J., Dissenting, with Whom Acoba, J., Joins)

The defendant-appellant Cheyenne Makalii appeals from the judgment of the district court of the first circuit, the Honorable Gerald Kibe presiding, convicting him of and sentencing him for the offense of prostitution, in violation of Hawaii Revised Statutes (HRS) § 712-1200(1) (1993).¹ Makalii argues that the district court erred in convicting him of prostitution, inasmuch as the request for a "ride into town," as a matter of law, does not constitute a "fee" within the meaning of HRS § 712-1200, see supra note 1.

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. The prosecution adduced substantial evidence, see State v. Batson, 73 Haw. 236, 248-49, 831 P.2d 924, 931 (1992), that Makalii offered to give Honolulu Police Department (HPD) Officer Jonathan Grems a "hand job" in exchange for a "ride into town,"

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 contact with another person for a fee."

that Officer Grems and Makalii were not married at the time of the subject incident, and that Officer Grems did not invite such an offer from Makalii. 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 finding Makalii guilty of prostitution, on the basis that he offered to engage in sexual contact with another person for a fee. Moreover, we believe that the district court correctly interpreted "fee" to include an item of value, not limited to money or other property and, thus, correctly ruled that a "ride into town" constituted a "fee" within the meaning of HRS § 712-1200, see supra note 1.

Therefore,

IT IS HEREBY ORDERED that the judgment from which the appeal is taken is affirmed.

DATED: Honolulu, Hawai'i, October 2, 2002.

Edward K. Harada (Deputy
Public Defender), for the
defendant-appellant,
Cheyenne Makalii

Alexa D. M. Fujise (Deputy
Prosecuting Attorney), for
the plaintiff-appellee,
State of Hawai'i