

NO. 24867

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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STATE OF HAWAI'I, Plaintiff-Appellee

vs.

PITA SALA, Defendant-Appellant

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APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
(CR. HPD NO. SD0100563)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Pita Sala (Defendant) appeals from the judgment and sentence entered on December 18, 2001 by the district court of the first circuit<sup>1</sup> (the court), adjudging Defendant guilty of harassment, Hawai'i Revised Statutes (HRS) § 711-1106(1)(a) (Supp. 2001). On appeal, Defendant argues that (1) the verdict was not supported by substantial evidence, and (2) the court failed to advise Defendant prior to the start of trial, of his right to testify or not, pursuant to State v. Tachibana, 79 Hawai'i 226, 233, 900 P.2d 1293, 1300 (1995).

In accordance with Hawai'i Rules of Appellate Procedure Rule 35, and after carefully reviewing the record and the briefs submitted by the parties, duly considering and analyzing the law

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<sup>1</sup> The Honorable Barbara P. Richardson presided over this matter.

relevant to the arguments and issues raised by the parties, and having heard oral argument, we conclude that: (1) a complaining witness's testimony alone may constitute substantial evidence, see State v. Archuletta, 85 Hawai'i 512, 514, 946 P.2d 620, 622 (App. 1997); (2) such testimony in this case amounted to substantial evidence, see State v. Batson, 73 Haw. 236, 248-49, 831 P.2d 924, 931 ("Substantial evidence' as to every material element of the offense charged is credible evidence which is of sufficient quality and probative value to enable a [person] of reasonable caution to support a conclusion." (Quoting State v. Lima, 64 Haw. 470, 475, 643 P.2d 536, 539 (1982).)); (3) on appeal, "even if it could be said in a bench trial that the conviction is against the weight of the evidence, as long as there is substantial evidence to support the requisite findings for conviction, the trial court will be affirmed[,] "Batson, 73 Haw. at 248, 831 P.2d at 931; (4) Defendant has not demonstrated actual prejudice from the failure of the trial court to advise Defendant, as required in Tachibana, of his right to testify or not testify, see State v. Lewis, 94 Hawai'i 292, 297, 12 P.3d 1233, 1238 (2000) (stating that "any claim of prejudice resulting from the failure of the trial court to give [the Tachibana advice] must meet . . . [an] 'actual prejudice' standard" (quoting Tachibana, 79 Hawai'i at 237, 900 P.2d at 1304 (brackets omitted))). Therefore,

IT IS HEREBY ORDERED that the the court's December 18,  
2001 judgment and sentence are affirmed.

DATED: Honolulu, Hawai'i, November 15, 2002.

Greg I. Nishioka for  
defendant-appellant.

James M. Anderson, Deputy  
Prosecuting Attorney,  
City and County of Honolulu,  
for plaintiff-appellee.