

NO. 24928

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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STATE OF HAWAI'I, Plaintiff-Appellee,

vs.

MARGARET GAUNTT-BRYANT, Defendant-Appellant.

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APPEAL FROM THE FAMILY COURT OF THE SECOND CIRCUIT  
(FC-CR NO. 01-1-0767)

SUMMARY DISPOSITION ORDER

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

Defendant-appellant Margaret Gauntt-Bryant appeals from the family court of the second circuit's January 17, 2002 judgment of conviction and sentence.<sup>1</sup> Gauntt-Bryant argues, inter alia, that: (1) the family court erred by failing to inform her of her constitutional right to testify, in violation of Tachibana v. State, 79 Hawai'i 226, 900 P.2d 1293 (1995), and State v. Lewis, 94 Hawai'i 292, 12 P.3d 1233 (2000); and (2) the family court erred in denying her motion for acquittal because plaintiff-appellee State of Hawai'i [hereinafter, "the prosecution"] failed to provide sufficient evidence to convict Gauntt-Bryant. The prosecution confesses error on both these points.

Upon carefully reviewing the record and the briefs submitted by the parties, and having given due consideration to

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<sup>1</sup> The Honorable Ruby Hamili presided over this matter.

the arguments advocated and the issues raised, we conclude that the prosecution's confession of error is supported by the record and is well-founded in law. See State v. Wasson, 76 Hawai'i 415, 418, 879 P.2d 520, 523 (1994); see also Lewis, 94 Hawai'i at 297, 12 P.3d at 1238; Tachibana, 79 Hawai'i at 240, 900 P.2d at 1307. Furthermore, the double jeopardy provisions of the United States and Hawai'i Constitutions preclude retrial of this case. State v. Hamala, 73 Haw. 289, 293, 834 P.2d 275, 277 (1992) ("'[T]he Double Jeopardy Clause precludes a second trial once the reviewing court has found the evidence legally insufficient[.]'" (Quoting Burks v. United States, 437 U.S. 1, 18 (1978))).

Therefore,

IT IS HEREBY ORDERED that the family court's  
January 17, 2002 judgment of conviction and sentence is reversed.

DATED: Honolulu, Hawai'i, September 29, 2004.

On the briefs:

Georgia K. McMillen  
for defendant-appellant  
Margaret Gauntt-Bryant

Richard K. Minatoya,  
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for plaintiff-appellee  
State of Hawai'i