

***** NOT FOR PUBLICATION *****

NO. 25000

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee,

vs.

YOUNG SHIN KIM, Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(Criminal HPD Nos. 02009132; 02009133)

SUMMARY DISPOSITION ORDER

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

The defendant-appellant Young Shin Kim appeals from the judgment of the district court of the first circuit, the Honorable Tenney Z. Tongg presiding, filed on February 28, 2002, convicting her of and sentencing her for the following offenses: (1) prostitution, in violation of Hawai'i Revised Statutes (HRS) § 712-1200(1) (1993); (2) practicing massage without a license, in violation of HRS § 452-2(a) (1993); and (3) practicing as a beauty operator without a license, in violation of HRS § 439-2(a) (1993). On appeal, Kim contends that: (1) the district court erred in denying her oral motion for a judgment of acquittal, inasmuch as there was insufficient evidence to support a prima facie case that Kim violated HRS §§ 439-2(a) and 452-2(a); and (2) there was insufficient evidence adduced at trial to convict Kim of the foregoing two offenses. Kim does not challenge the judgment of conviction and sentence with respect to the offense of prostitution.

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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 judgment of the district court. Viewing the evidence in the light most favorable to the prosecution, see State v. Aplaca, 96 Hawai'i 17, 21, 25 P.3d 792, 796 (2001), the district court did not err in denying Kim's oral motion for a judgment of acquittal, on the basis that there was sufficient evidence to establish a prima facie case for the offenses of practicing as a beauty operator without a license and practicing massage without a license. Moreover, viewing the evidence in the light most favorable to the prosecution, see State v. Martinez, 101 Hawai'i 332, 338-39, 68 P.3d 606, 612-13 (2003), the district court did not err in concluding that there was sufficient evidence to convict Kim of the offenses of practicing as a beauty operator without a license and practicing massage without a license. Therefore,

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

DATED: Honolulu, Hawai'i, February 23, 2004.

On the briefs:

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the defendant-appellant
Young Shin Kim

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