NO. 22484

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAIʻI

STATE OF HAWAIʻI, Plaintiff-Appellee, v.
DOUGLAS ALLEN SNELL, Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 98-0857)

SUMMARY DISPOSITION ORDER
(By: Burns, C.J., Watanabe and Lim, JJ.)

Defendant-Appellant Douglas Allen Snell (Snell) appeals the circuit court's April 13, 1999 judgment, upon a jury verdict, convicting him as charged of Burglary in the First Degree, Hawaiʻi Revised Statutes (HRS) § 708-810(1)(c) (1993), and Harassment by Stalking, HRS § 711-1106.5 (1993), and sentencing him to consecutive terms of imprisonment of ten years for the Burglary in the First Degree and one year for the Harassment by Stalking. We affirm.

First, Snell contends that the court erred when, in deciding a motion to suppress, it impliedly decided that a police detective's qualifications as an expert were sufficient to admit her opinion that stalking suspects typically take "trophies" from their victims.

The determination of whether or not a witness is qualified as an expert in a particular field is largely within the discretion of the trial judge and, as such, will not be upset absent a clear abuse of discretion. State v. Torres, 60 Haw. 271, 277-78, 589 P.2d 83, 87 (1978). There was no abuse of discretion in this instance. The extent of the expert's knowledge goes to the weight rather than the admissibility of his or her testimony. Yap v. Controlled Parasailing of Honolulu, Inc., 76 Hawai‘i 248, 254, 873 P.2d 1321, 1327 (1994) (citing Larsen v. State Savings and Loan Association, 64 Haw. 302, 304, 640 P.2d 286, 288 (1983)).

Second, Snell contends that the court erred when it impliedly decided that Plaintiff-Appellee State of Hawai‘i (the State) had presented clear and convincing evidence that a specific police officer independently possessed the level of suspicion necessary to obtain a search warrant when that officer admitted that in preparing the warrant, she had seen evidence which was the fruit of an invalid, nonconsented search, and also admitted that this evidence may have been used to justify her application for the search warrant.

It is clear from the circuit court's rulings that the court was applying the independent source exception, State v. Brighter, 63 Haw. 95, 101, 621 P.2d 374, 379 (1980), and *not* the

inevitable discovery exception. The record supports the circuit court's decision and application.

Third, according to Snell's opening statement,

> the dynamic involved in Snell's case was that the complaining witness used her feminine charms to both attract and extort gifts from Snell and that when Snell ran out of money and/or refused to continue to spoil her, she got tired of him. Thus, when she complained to the police that Snell had broken into her house, in actuality, she had invited him and thereby set him up.

(Footnotes omitted.)

Snell contends that the court erred when it: (a) allowed the State to introduce 103 of the 114 exhibits; (b) allowed into evidence so called "bad acts" by Snell and did so in overwhelmingly cumulative quantities and did not allow Snell to present non-bad acts evidence concerning the complainant; and (c) did not allow Snell to effectively cross examine the complainant as to problems with her boyfriend and/or her misleading the police as to her work and the complainant's boyfriend as to his arguments with her, the frequency of his out-of-state calls to check up on her, his lack of trust of her, and the fact that she used him to pay her bills.

The responsibility for maintaining the delicate balance between probative value and prejudicial effect lies largely within the discretion of the trial court. State v. Klafta, 73 Haw. 109, 115-16, 831 P.2d 512, 516 (1992) (citing State v. Iaukea, 56 Haw. 343, 349, 537 P.2d 724, 729 (1975)). Under the

abuse of discretion standard, the trial court may not be reversed by an appellate court unless the trial court clearly exceeded the bounds of reason or disregarded rules or principles of law or practice to the substantial detriment of a party litigant. Kealoha v. County of Hawaii, 74 Haw. 308, 318, 844 P.2d 670, 675 (1993). There was no abuse of discretion in this instance.

Fourth, Snell contends that, even if each "error" was not separately prejudicial, the "errors" were cumulatively prejudicial. We conclude that there was no error and that this cumulative harmful error argument is irrelevant.

CONCLUSION

Accordingly, the April 13, 1999 judgment is affirmed.

DATED: Honolulu, Hawai‘i, December 19, 2000.

On the briefs:

T. Stephen Leong
for Defendant-Appellant.

Chief Judge

Loren J. Thomas,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.

Associate Judge

Associate Judge