

NO. 23546

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee, v.
BRENDA CORDY, Defendant-Appellant

APPEAL FROM THE FAMILY COURT OF THE SECOND CIRCUIT
(FC-CR NO. 00-01-0132(3))

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Brenda Cordy (Defendant) appeals the June 20, 2000 Amended Judgment of Probation, entered by District Family Court Judge Anthony L. Rankin, convicting Defendant of 1) Abuse of Family and Household Member, Hawaii Revised Statutes (HRS) § 709-906 (Supp. 2000), and 2) Terroristic Threatening in the Second Degree, HRS § 707-717(1) (1993), and sentencing her to concurrent terms of one year of probation and, as required by HRS § 351-62.6(a)(2) (Supp. 2000), to pay a \$100 Criminal Injuries Compensation Fee by July 31, 2000. One of the many conditions of probation was a thirty-four day jail term, thirty days of which were suspended for a period of one year.

Defendant contends that the evidence presented was insufficient to support the judgment. We disagree. The applicable standard of review is as follows:

We have long held that evidence adduced in the trial court must be considered in the strongest light for the prosecution when the appellate court passes on the legal sufficiency of such evidence to support a conviction; the same standard applies whether the case was before a judge or a jury. The test on appeal is not whether guilt is established beyond a reasonable doubt, but whether there was substantial evidence to support the conclusion of the trier of fact. Indeed, 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.

"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. And as trier of fact, the trial judge is free to make all reasonable and rational inferences under the facts in evidence, including circumstantial evidence.

State v. Batson, 73 Haw. 236, 248-49, 831 P.2d 924, 931 (1992),
reconsideration denied, 73 Haw. 625, 834 P.2d 1315 (1992)
(citations omitted).

It is for the trial judge as fact-finder to assess the credibility of witnesses and to resolve all questions of fact; the judge may accept or reject any witness's testimony in whole or in part. As the trier of fact, the judge may draw all reasonable and legitimate inferences and deductions from the evidence, and the findings of the trial court will not be disturbed unless clearly erroneous. An appellate court will not pass upon the trial judge's decisions with respect to the credibility of witnesses and the weight of the evidence, because this is the province of the trial judge.

State v. Eastman, 81 Hawai'i 131, 139, 913 P.2d 57, 65 (1996)
(citations omitted).

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

IT IS HEREBY ORDERED that the June 20, 2000

Amended Judgment of Probation is affirmed.

DATED: Honolulu, Hawai'i, September 28, 2001.

On the briefs:

Tracy S. Fukui,
Deputy Public Defender,
for Defendant-Appellant. Chief Judge

Glenn Pesenhofer,
Deputy Prosecuting Attorney,
County of Maui, Associate Judge
for Plaintiff-Appellee.

Associate Judge