

NO. 24500

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

STATE OF HAWAI'I, Plaintiff-Appellee,
v. NATHANIEL S. TURRO, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(Cr. No. 01-1-0388)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Nathaniel Turro (Turro) appeals from the July 24, 2001 Judgment, entered by the Circuit Court of the First Circuit (the circuit court), Judge Marie N. Milks presiding, convicting and sentencing Turro for Promoting a Dangerous Drug in the Second Degree, in violation of Hawaii Revised Statutes § 712-1242(1)(c) (1993).¹

Turro claims that the circuit court erred by "giving an accomplice liability [jury] instruction that was prejudicially insufficient, incomplete and misleading" because the instruction allowed the jury to convict Turro as an accomplice to the buyer

^{1/} Hawaii Revised Statutes § 712-1242 (1993) states, in relevant part:

Promoting a dangerous drug in the second degree.

(1) A person commits the offense of promoting a dangerous drug in the second degree if the person knowingly:

. . . .

(c) Distributes any dangerous drug in any amount.

of the dangerous drug, a police officer, "thereby denying [Turro] his right to a fair trial[.]"

Upon carefully reviewing the record and the briefs submitted by the parties and having duly considered the case law and statutes relevant to the arguments advanced by the parties, we disagree with Turro.

"When jury instructions or the omission thereof are at issue on appeal, the standard of review is whether, when read and considered as a whole, the instructions given are prejudicially insufficient, erroneous, inconsistent, or misleading[.]" State v. Valentine, 93 Hawai'i 199, 204, 998 P.2d 479, 484 (2000) (internal quotations signals omitted). Based on our review of the record, we conclude that the accomplice liability instruction given by the circuit court, when read and considered with the other instructions given by the circuit court, was not "prejudicially insufficient, erroneous, inconsistent, or misleading[.]"

Accordingly, we affirm the July 24, 2001 Judgment.

DATED: Honolulu, Hawai'i, February 27, 2003.

On the briefs:

Jennifer D. K. Yamashiro,
Deputy Public Defender
for defendant-appellant.

Bryan K. Sano, Deputy
Prosecuting Attorney, City
and County of Honolulu
for plaintiff-appellee.