

NOT FOR PUBLICATION

NO. 25048

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
ROWLAND P. IGNACIO, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT
SOUTH KOHALA DIVISION
(REPORT NO. G-45761)

MEMORANDUM OPINION

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

Defendant-Appellant Rowland P. Ignacio (Ignacio) appeals from the judgment pronounced in the District Court of the Third Circuit, Kohala Division, on August 22, 2001, and filed on October 13, 2003, finding him guilty of Contempt of Court, Hawaii Revised Statutes (HRS) § 710-1077(1)(g) (1993), and sentencing him to pay a \$75 fine, a \$50 Bench Warrant Processing Fee, and \$25 to the Criminal Injuries Compensation Fund. We affirm.

HRS § 710-1077(1)(g) specifies that a person commits the offense of criminal contempt of court if "[t]he person knowingly disobeys or resists the process, injunction, or other mandate of a court." Ignacio was charged with failing to appear in court on October 4, 2000 to respond to an assault charge.

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At a trial on August 22, 2001, Judge Jeffrey Choi found Ignacio guilty and sentenced him. On March 14, 2002, Judge Choi entered Findings of Fact and Conclusions of Law, and Judgment Finding Defendant Guilty of Contempt of Court. This judgment, however, was not appealable because it did not satisfy the requirements of State v. Bohannon, 102 Hawai'i 228, 74 P.3d 980 (2003). Therefore, the case was temporarily remanded to the district court for entry of a written judgment.

The March 14, 2002 findings stated, in relevant part, as follows:

Defendant testified that he initially wrote the date on a calendar, but disposed of the calendar without transferring the date to another calendar. Although Defendant knew he had to appear in South Kohala for further proceedings on the case, G-14066, he did not remember the date and did not inquire about the date until after he was informed by an acquaintance that a bench warrant had been issued for his failure to appear on October 4, 2000. Thereafter, he did call the Court and turned himself in on the bench warrant.

In this appeal, Ignacio contends,

In order to commit the crime of Criminal Contempt of Court there must be proof that a defendant was "aware" that he/she was ordered to go to Court and "knowingly" disobeyed the order.

If a person honestly forgot to go to Court, he did not "knowingly" disobey the Court's order to appear.

- i. The Trial Court erred by[:]
 - a) interpreting this statute not to require a state of mind of "knowingly" but just proof of a failure to come to Court to constitute Contempt of Court and
 - b) ruling that "forgetting" to come to Court is not a defense.

HRS § 702-206 (1993) states as follows:

Definitions of states of mind. . . .

- (2) "Knowingly."
 - (a) A person acts knowingly with respect to his conduct when he is aware that his conduct is of that nature.
 - (b) A person acts knowingly with respect to attendant circumstances when he is aware that such circumstances exist.
 - (c) A person acts knowingly with respect to a result of his conduct when he is aware that it is practically certain that his conduct will cause such a result.

It appears that Ignacio's argument is that a person who forgets is not "aware that his conduct is of that nature[.]" We pass on this question, however, because it is not the dispositive question.

We conclude that the fact that Ignacio "wrote the date on a calendar, but disposed of the calendar without transferring the date to another calendar[,]" is substantial evidence supporting the finding that Ignacio acted "knowingly" that he was going to forget to comply with the court order requiring his appearance in court on the specified day because it is substantial evidence that he was "aware that it [was] practically certain that his conduct" of not transferring the date to another calendar would cause him to forget to comply with that court order.

Accordingly, we affirm the judgment pronounced on August 22, 2001, and filed on October 13, 2003, convicting

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Defendant-Appellant Rowland P. Ignacio of Contempt of Court,
Hawai'i Revised Statutes (HRS) § 710-1077(1)(g) (1993).

DATED: Honolulu, Hawai'i, December 16, 2003.

On the briefs:

Christopher J. Roehrig
for Defendant-Appellant.

Chief Judge

Janet R. Garcia,
Deputy Prosecuting Attorney,
County of Hawai'i,
for Plaintiff-Appellee.

Associate Judge

Associate Judge