

NOT FOR PUBLICATION

NO. 25426

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
JOSEPH MISURACA, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIFTH CIRCUIT
(CASE NO. LC01-269)

MEMORANDUM OPINION

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

Joseph Robert Misuraca (Misuraca) appeals, *pro se*, the October 16, 2003 judgment of the district court of the fifth circuit, the Honorable Trudy K. Senda, judge presiding, that convicted him, after a bench trial, of harassment, a violation of Hawai'i Revised Statutes § 711-1106 (Supp. 2003).

Misuraca's sole point of error on appeal is, that "Plaintiff lied." Opening Brief, second page.¹ Obviously, a transcript of the bench trial is necessary for us to consider this appeal. Misuraca did not, however, order a transcript and ensure its inclusion in the record on appeal. Hence, the

¹ The opening brief in this appeal is a preprinted form, filled in by hand. The entirety of its relevant substance is as follows: "Plaintiff lied. There were no witnesses. It was word of Plaintiff versus Defendant only." Opening Brief, second and third pages. But see State v. Ferrer, 95 Hawai'i 409, 422, 23 P.3d 744, 757 (App. 2001) ("we give full play to the right of the fact finder to determine credibility, weigh the evidence, and draw justifiable inferences of fact" (citation and internal block quote format omitted)).

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presumption in favor of the judgment of the trial court prevails, and we affirm the October 16, 2003 judgment of the district court. See State v. Hoang, 93 Hawai'i 333, 334-36, 3 P.3d 499, 500-502 (2000).

DATED: Honolulu, Hawai'i, August 13, 2004.

On the briefs:

Joseph R. Misuraca, *pro se*
defendant-appellant.

Acting Chief Judge

Roland J. Talon,
Deputy Prosecuting Attorney,
County of Kauai,
for plaintiff-appellee.

Associate Judge

Associate Judge