

NO. 25559

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
STEPHEN BRADLEY BAKER, Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT  
(CR. NO. 02-1-1412)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Stephen Bradley Baker (Baker) appeals the Judgment<sup>1</sup> filed on December 2, 2002 in the Circuit Court of the First Circuit (circuit court).<sup>2</sup> Baker was convicted of two counts of Terroristic Threatening in the First Degree, in violation of Hawaii Revised Statutes (HRS) § 707-716(1)(d) (1993).<sup>3</sup>

---

<sup>1/</sup> Baker was charged in Count II and in Count III with Hawaii Revised Statutes (HRS) § 707-716(1)(d), and the jury found Baker guilty as charged. However, the December 2, 2002 Judgment fails to set forth any of the HRS subsections under which Baker was charged and convicted. The circuit court is hereby ordered to file an Amended Judgment setting forth the particular HRS subsections of which Baker was convicted.

<sup>2/</sup> The Honorable Derrick H.M. Chan presided.

<sup>3/</sup> HRS § 707-716 (1993) provides in relevant part:

**§707-716 Terroristic threatening in the first degree. (1)**

A person commits the offense of terroristic threatening in the first degree if the person commits terroristic threatening:

. . . .

(d) With the use of a dangerous instrument.

(2) Terroristic threatening in the first degree is a class C felony.

(continued...)

On appeal, Baker contends (1) the circuit court plainly erred in providing the jury with instructions defining both "threat" and "true threat" and in failing to instruct the jury that the State must prove beyond a reasonable doubt that a remark threatening bodily injury is a "true threat"; and (2) there was insufficient evidence to establish that his words or conduct rose to the level of "true threats."

Upon careful review of the record and the briefs submitted by the parties, we hold as follows:

(1) The jury instructions provided by the circuit court were not prejudicially confusing because

(a) the jury was given an accurate definition of the term "true threat," as regarding the offense of Terroristic Threatening in the First Degree. See State v. Valdivia, 95 Hawai'i 465, 476, 24 P.3d 661, 672 (2001); State v. Chung, 75 Haw. 398, 416-17, 862 P.2d 1063, 1073 (1993);

---

<sup>3/</sup>(...continued)

HRS § 707-715 (1993) provides, in relevant part, the following definition for "terroristic threatening":

**§707-715 Terroristic threatening, defined.** A person commits the offense of terroristic threatening if the person threatens, by word or conduct, to cause bodily injury to another person or serious damage to property of another or to commit a felony:

(1) With the intent to terrorize, or in reckless disregard of the risk of terrorizing, another person[.]

(b) the jury was instructed on methods of "proving that a threat is a true threat." See Valdivia, 95 Hawai'i at 475-76, 24 P.3d at 671-72; and

(c) when read and considered as a whole, the circuit court's instructions properly instructed the jury that the State was required to prove beyond a reasonable doubt that Baker's words or conduct constituted a "true threat." See State v. Vanstory, 91 Hawai'i 33, 42-43, 979 P.2d 1059, 1068-69 (1999).

(2) When considering the evidence adduced at trial in the strongest light for the State, it is clear that there was substantial evidence to support a conclusion that Baker's words or conduct rose to the level of "true threats." See State v. Richie, 88 Hawai'i 19, 33, 960 P.2d 1227, 1241 (1998).

Therefore,

IT IS HEREBY ORDERED that Judgment filed on December 2, 2002 in the Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, August 6, 2004.

On the briefs:

Joyce K. Matsumori-Hoshijo,  
Deputy Public Defender,  
for defendant-appellant.

Chief Judge

Peter Carlisle,  
Prosecuting Attorney,  
City and County of Honolulu,  
for plaintiff-appellee.

Associate Judge

Associate Judge