

NOT FOR PUBLICATION

NO. 25663

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
WAYNE OLIVEIRA, Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 02-1-2121)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Wayne Oliveira (Oliveira) appeals the Judgment filed on February 4, 2003 in the Circuit Court of the First Circuit (circuit court).¹ Oliveira was charged with and convicted of Assault in the Third Degree, in violation of Hawaii Revised Statutes (HRS) § 707-712(1)(a) (1993).²

On appeal, Oliveira contends the circuit court erred by granting the State's Motion in Limine as to the exclusion of the verdict in the case of another person charged separately in connection with the same episode for which Oliveira was charged.

Upon careful review of the record and briefs submitted by the parties, we conclude that Oliveira's contention is without

¹ The Honorable Derrick H.M. Chan presided.

² Oliveira was charged with violating Hawaii Revised Statutes (HRS) § 707-712(1)(a) (1993) and was found guilty. We note that the February 4, 2003 Judgment fails to set forth the HRS subsection under which Oliveira was charged and convicted. The circuit court is hereby ordered to file an Amended Judgment setting forth nunc pro tunc the particular HRS subsection of which Oliveira was convicted.

merit. "It is certainly true that a person accused of [a] crime may not introduce evidence of the acquittal of another person charged in connection with the same episode to create an impression before the jury that the defendant is equally innocent." Commonwealth v. Meredith, 493 Pa. 1, 7, 425 A.2d 334, 337 (1981). The same holds true, as in this case, when the other person was convicted of the included offense.

Therefore,

The Judgment filed on February 4, 2003 in the Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, September 17, 2004.

On the briefs:

Michael A. Glenn
for defendant-appellant.

Acting Chief Judge

Alexa D.M. Fujise,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for plaintiff-appellee.

Associate Judge

Associate Judge