

NO. 25245

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
GERVEN SORINO, Defendant-Appellant,  
and  
PETER TAKEDA, Defendant

APPEAL FROM THE FIRST CIRCUIT COURT  
(CR. NO. 00-1-1728)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Gerven Sorino (Sorino) appeals from the Judgment filed on July 9, 2002 in the Circuit Court of the First Circuit (circuit court).<sup>1</sup> On October 22, 2001 a jury found Sorino guilty of possession of a firearm and ammunition by a person convicted of certain crimes, in violation of Hawaii Revised Statutes (HRS) § 134-7(b) and (h) (Supp. 2004).<sup>2</sup>

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<sup>1</sup> The Honorable Karl K. Sakamoto presided.

<sup>2</sup> Hawaii Revised Statutes § 134-7(b) and (h) (Supp. 2004) provides in relevant part:

**§134-7 Ownership or possession prohibited, when; penalty.**

. . . .  
(b) No person who is under indictment for, or has waived indictment for, or has been bound over to the circuit court for, or has been convicted in this State or elsewhere of having committed a felony, or any crime of violence, or an illegal sale of any drug shall own, possess, or control any firearm or ammunition therefor.

. . . .  
(h) Any person violating subsection (a) or (b) shall be guilty of a class C felony; provided that any felon violating subsection (b) shall be guilty of a class B felony. Any person violating subsection (c), (d), (e), (f), or (g) shall be guilty of a misdemeanor.

On appeal,<sup>3</sup> Sorino contends the circuit court erred in denying his post-conviction Motion for Judgment of Acquittal/Dismissal and/or New Trial because there was insufficient evidence to support the conviction.

Upon careful review of the record and the briefs submitted by the parties, we hold that the circuit court did not err in denying Sorino's motion for judgment of acquittal because based "upon the evidence viewed in the light most favorable to the prosecution and in full recognition of the province of the trier of fact, the evidence is sufficient to support a prima facie case so that a reasonable mind might fairly conclude guilt beyond a reasonable doubt." State v. Timoteo, 87 Hawai'i 108, 112-13, 952 P.2d 865, 869-70 (1997) (quoting State v. Jhun, 83 Hawai'i 472, 481, 927 P.2d 1355, 1364 (1996)). Sorino failed to produce enough evidence to prove facts constituting his defense of duress. State v. Ortiz, 93 Hawai'i 399, 408, 4 P.3d 533, 542 (App. 2000). The State sufficiently "prove[d] facts negating the justification defense beyond reasonable doubt." State v. Sanchez, 2 Haw. App. 577, 578, 636 P.2d 1365, 1366 (1981).

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<sup>3</sup> The opening brief of Defendant-Appellant Gerven Sorino (Sorino) fails to comply with Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b)(3) in failing to include in the statement of the case "record references supporting each statement of fact or mention of court . . . proceedings." On January 30, 2004, in an unrelated case, Sorino's counsel failed to comply with HRAP Rule 28(j) and was warned that future non-compliance with HRAP Rule 28(j) might result in sanctions against him. Sorino's counsel is now warned that future non-compliance with HRAP Rule 28 will result in sanctions against him.

Therefore,

IT IS HEREBY ORDERED that the Judgment filed on July 9, 2002 in the Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, March 3, 2005.

On the briefs:

Warren H. Kim  
for defendant-appellant.

Acting Chief Judge

Daniel H. Shimizu,  
Deputy Prosecuting Attorney,  
City and County of Honolulu,  
for plaintiff-appellee.

Associate Judge

Associate Judge