

NOT FOR PUBLICATION

NO. 25843

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
SHANE EDRALIN, Defendant-Appellant,
and CYNTHIA CHEONG, Defendant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 01-1-2272)

SUMMARY DISPOSITION ORDER

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

Shane Lawrence Edralin (Defendant) appeals the April 21, 2003 judgment, as amended on May 8, 2003, that the Circuit Court of the First Circuit (circuit court)¹ entered upon a plea of guilty conditioned on Defendant's appeal of the circuit court's September 17, 2002 order denying his June 7, 2002 motion to suppress.

After a meticulous review of the record and the briefs submitted by the parties, and giving careful consideration to the arguments advanced and the issues raised by the parties, we conclude the circuit court was right when it denied Defendant's motion to suppress, State v. Jenkins, 93 Hawai'i 87, 100, 997 P.2d 13, 26 (2000), because:

1. Defendant was not yet "in custody" when he made statements to Honolulu Police Department officer Charles Rezentes

¹ The Honorable Victoria S. Marks presided.

K. HAMAKAHO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

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(Officer Rezendes) in the parking lot of the Stadium Mall K-Mart, and thus, prior Miranda warnings were not required, State v. Ah Loo, 94 Hawai'i 207, 212, 10 P.3d 728, 733 (2000); and

2. Officer Rezendes eventually had probable cause to arrest Defendant for theft, State v. Vance, 61 Haw. 291, 294, 602 P.2d 933, 937 (1979); therefore,

a. The search that turned up the Winnie-the-Pooh-Bear pouch, and the black nylon pouch containing the glass pipe in plain view, State v. Meyer, 78 Hawai'i 308, 314, 893 P.2d 159, 165 (1995), was a lawful pre-incarceration search, State v. Clark, 65 Haw. 488, 498, 654 P.2d 355, 362 (1982); and

b. The statement Defendant made during the booking process was an admissible spontaneous utterance. State v. Amarin, 61 Haw. 356, 359-60, 604 P.2d 45, 48 (1979).

Therefore,

IT IS HEREBY ORDERED that the April 21, 2003 judgment of the circuit court, as amended on May 8, 2003, is affirmed.

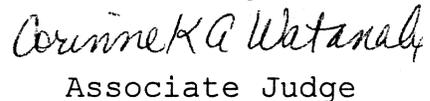
DATED: Honolulu, Hawai'i, April 26, 2005.

On the briefs:

Nelson W.S. Goo,
for defendant-appellant.

Donn Fudo,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for plaintiff-appellee.


Chief Judge


Associate Judge


Associate Judge