

NO. 26065

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
MAKAALA J. RAWLINS, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 02-1-0487)

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SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Makaala J. Rawlins (Rawlins)

appeals from the Amended Judgment filed on August 8, 2003 in the Circuit Court of the First Circuit (circuit court).^{1/} The State of Hawai'i (the State) charged Rawlins with one count of Assault in the First Degree (Count I), in violation of Hawaii Revised Statutes (HRS) § 707-710 (1993), and one count of Assault in the Second Degree (Count II), in violation of HRS § 707-711(1)(a) (1993).^{2/} On August 29, 2002, the State filed a motion for nolle

^{1/} The Honorable Karen S. S. Ahn presided.

^{2/} Hawaii Revised Statutes (HRS) § 707-710 provides:

§707-710 Assault in the first degree. (1) A person commits the offense of assault in the first degree if the person intentionally or knowingly causes serious bodily injury to another person.

(2) Assault in the first degree is a class B felony.

HRS § 707-711 (1993) provides in relevant part:

§707-711 Assault in the second degree. (1) A person commits the offense of assault in the second degree if:

(a) The person intentionally or knowingly causes substantial bodily injury to another[.]

.....

(2) Assault in the second degree is a class C felony.

prosecute of Count II without prejudice, which the circuit court granted. After a jury trial, Rawlins was found guilty of Count I. The circuit court sentenced Rawlins to five years of probation and a term of imprisonment of 14 days and ordered Rawlins to pay restitution and fines.

On appeal, Rawlins argues that (1) there was no substantial evidence to support his conviction for Assault in the First Degree where he did not intentionally or knowingly cause "serious bodily injury" to the victim and (2) he did not receive effective assistance of counsel.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues as raised by the parties, we hold:

(1) There was substantial evidence that Rawlins intentionally or knowingly caused "serious bodily injury" to the victim. State v. Batson, 73 Hawai'i 236, 831 P.2d 924 (1992); State v. Eastman, 81 Hawai'i 131, 140-41, 913 P.2d 57, 66-67 (1996).

(2) Trial counsel's failure to challenge the voluntariness of Rawlins' statement did not amount to ineffective assistance of counsel. State v. Samuel, 74 Haw. 141, 158, 838 P.2d 1374, 1382 (1992); State v. Pacheo, 96 Hawai'i 83, 94, 26

P.3d 572, 583 (2001); Briones v. State, 74 Haw. 442, 848 P.2d 966 (1993); State v. Bowe, 77 Hawai'i 51, 881 P.2d 538 (1994).

(3) Trial counsel's failure to move to strike victim's testimony after counsel discovered that the testimony was based on hearsay statements did not amount to ineffective assistance of counsel. State v. Silva, 75 Haw. 419, 864 P.2d 583 (1993).

Therefore,

IT IS HEREBY ORDERED that the August 8, 2003 Amended Judgment of the Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, November 22, 2005.

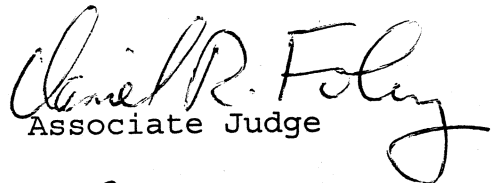
On the briefs:

Jon N. Ikenaga,
Deputy Public Defender,
for Defendant-Appellant.

Donn Fudo,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.



Acting Chief Judge



Associate Judge



Associate Judge