

NO. 26337

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
STEPHANIE M. PRAINO, Defendant-Appellant

EM RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

2005 MAY - 6 AM 8: 20

FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT,
HONOLULU DIVISION
(HPD NO. 02486818)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Stephanie M. Praino (Praino) appeals the January 13, 2004 Judgment of the District Court of the First Circuit, Honolulu Division^{1/} (district court). The district court denied Praino's motion to withdraw her December 16, 2002 no contest plea.

Upon careful review of the record and the briefs submitted by the parties, we hold the district court lacked subject matter jurisdiction to accept Praino's plea of no contest and impose sentence because the State's oral charge of "[o]n or about December 11, 2002, you did violate Section 708-833, that's theft in the fourth degree, in the City and County of Honolulu, State of Hawaii," failed to adequately allege the essential or material elements of Theft in the Fourth Degree. State v. Cummings, 101 Hawai'i 139, 63 P.3d 1109 (2003).

^{1/} The Honorable Russel Nagata presided.

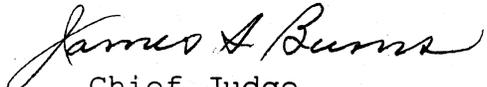
Therefore, the January 13, 2004 Judgment of the District Court of the First Circuit, Honolulu Division, is reversed.

DATED: Honolulu, Hawai'i, May 6, 2005.

On the briefs:

Harrison L. Kiehm
(Law Office of Howard K.K. Luke)
for defendant-appellant.

Ryan Yeh,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for plaintiff-appellee.


Chief Judge


Associate Judge


Associate Judge