

NOT FOR PUBLICATION

NO. 26380

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
VICKI HARLAN, Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT,
HONOLULU DIVISION
(HPD CRIMINAL NO. 01290416)

NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

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FILED

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Vicki Harlan (Harlan) appeals the Judgment filed on February 6, 2004 in the District Court of the First Circuit, Honolulu Division (district court).^{1/} After a bench trial, the district court found Harlan guilty of Disorderly Conduct, in violation of Hawaii Revised Statutes § 711-1101(1)(b) (1993 & Supp. 2004).^{2/} The district court sentenced Harlan to

^{1/} The Honorable Lono J. Lee presided.

^{2/} Hawaii Revised Statutes § 711-1101 (1993 & Supp. 2004) provides in relevant part:

§711-1101 Disorderly conduct. (1) A person commits the offense of disorderly conduct if, with intent to cause physical inconvenience or alarm by a member or members of the public, or recklessly creating a risk thereof, the person:

.....

(b) Makes unreasonable noise[.]

.....

(2) Noise is unreasonable within the meaning of subsection (1)(b), if considering the nature and purpose of the person's conduct and the circumstances known to the person, including the nature of the location and the time of day or night, the person's

(continued...)

one day in jail with credit for time served.

On appeal, Harlan claims there was insufficient evidence in support of her conviction. Harlan also argues that the district court erred in denying her motion for judgment of acquittal and renewed motion for judgment of acquittal.

Upon careful review of the record and the briefs submitted by the parties, we hold that Harlan has failed to show there was insufficient evidence in support of her conviction. Harlan also fails to show that the court erred in denying her motion for judgment of acquittal and renewed motion for judgment of acquittal. There was "substantial evidence to support the conclusion of the trier of fact." State v. Eastman, 81 Hawai'i 131, 135, 913 P.2d 57, 61 (1996). This court will not second-guess the district court's determination that the State's witnesses were credible. State v. Mattiello, 90 Hawai'i 255, 259, 978 P.2d 693, 697 (1999).

Therefore,

^{2/}(...continued)

conduct involves a gross deviation from the standard of conduct that a law-abiding citizen would follow in the same situation; or the failure to heed the admonition of a police officer that the noise is unreasonable and should be stopped or reduced.

IT IS HEREBY ORDERED that the Judgment filed on February 6, 2004 in the District Court of the First Circuit, Honolulu Division, is affirmed.

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

On the briefs:

Chester M. Kanai
for Defendant-Appellant.

Mark Yuen,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.

Cornie K.A. Wataahe

Acting Chief Judge



Associate Judge

Daniel R. Foley
Associate Judge