

NOT FOR PUBLICATION

NO. 26735

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
NED NARMORE, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
(HPD CR. NO. 01295069)

LEA RIMANDO  
CLERK, APPELLATE COURTS  
STATE OF HAWAI'I

2005 JUN 30 AM 9:49

FILED

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Ned Narmore (Narmore) appeals from the Judgment filed on September 13, 2004, in the District Court of the First Circuit, Wai'anae Division (district court). After a bench trial, the Honorable Lawrence Cohen found Narmore guilty of criminal contempt of court, in violation of Hawaii Revised Statutes (HRS) § 710-1077(1)(g) (1993),<sup>1/</sup> for violating a temporary restraining order (TRO) against harassment. Judge Cohen sentenced Narmore to six months' probation and imposed several conditions, including that Narmore stay away from the complaining witness, Sue Alana, and her family.

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<sup>1/</sup> Hawaii Revised Statutes (HRS) § 710-1077(1)(g) (1993) provides:

**§710-1077 Criminal contempt of court.** (1) A person commits the offense of criminal contempt of court if:

(g) The person knowingly disobeys or resists the process, injunction, or other mandate of a court[.]

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On appeal, Narmore argues that his conviction should be reversed because there was insufficient evidence that 1) the July 30, 2001, TRO was served on him; and 2) Narmore knowingly disobeyed the TRO. After a careful review of the record and the briefs submitted by the parties, we conclude that Narmore's arguments have no merit.

I.

Narmore argues that there was insufficient evidence to show that he was served with the July 30, 2001, TRO, rather than some other TRO involving Sue Alana and her family (the Alanas). The July 30, 2001, TRO was admitted in evidence as State's Exhibit 4. Honolulu Police Department Officer Carl Kalani expressed some uncertainty during cross-examination about whether State's Exhibit 4 was the document he had served on Narmore. When viewed in the light most favorable to the prosecution, however, the evidence was sufficient to prove that Narmore had been served with the July 30, 2001, TRO.

Officer Kalani testified on direct examination that he served Narmore with a TRO on July 30, 2001. He stated that he recognized State's Exhibit 4 as the "restraining order" because he recalled references to Narmore having urinated on lawn furniture, throwing feces, and popping fireworks, which were reflected in State's Exhibit 4. Officer Kalani testified that

"as far as he knew," State's Exhibit 4 was the document he had served on Narmore.

Officer Kalani also identified State's Exhibit 5 as the proof of service form that Narmore signed after Officer Kalani served Narmore with the TRO on July 30, 2001. Significantly, the proof of service form admitted as State's Exhibit 5 contains the same civil number as the TRO admitted as State's Exhibit 4. This provides compelling evidence that State's Exhibit 4 was indeed the TRO that Officer Kalani served on Narmore on July 30, 2001. In addition, the TRO admitted as State's Exhibit 4 was issued on July 30, 2001, at 10:16 a.m., while Officer Kalani served a TRO on Namore on July 30, 2001, at 4:45 p.m. The closeness in time between the issuance of State's Exhibit 4 and Officer Kalani's service provides further evidence that Officer Kalani served Narmore with State's Exhibit 4 on July 30, 2001, rather than some other TRO involving the Alanas. We conclude that there was substantial evidence that Narmore was served with the appropriate TRO on July 30, 2001. State v. Tamura, 63 Haw. 636, 637, 633 P.2d 1115, 1117 (1981).

II.

Narmore claims that there was insufficient evidence that he knowingly disobeyed the July 30, 2001, TRO. In particular, Narmore argues that 1) there was insufficient evidence that he uttered the words "fucking pussy," and 2) even

assuming that he made the offensive statements, there was insufficient evidence that he was directing the statements at Sue Alana. We disagree.

Sue Alana, who the district court found was credible, testified that while she was outside on her porch, she heard Narmore call her a "fucking pussy" twice. This testimony was sufficient to prove that Narmore uttered the offensive statements.

There was also sufficient evidence to show that Narmore knowingly directed the offensive language at Sue Alana. The evidence showed that prior to the charged incident, Narmore had engaged in acts of harassment against the Alanas. Narmore's behavior prompted Sue Alana to seek the TRO on July 30, 2001, and caused the district court to issue the TRO. Sue Alana testified that Narmore was pretty close to her when he twice called her a "fucking pussy." Sue Alana further testified that she knew that Narmore was talking to her because "[t]here was no one else around" and she had heard Narmore say "things like that" before. We conclude there was substantial evidence that Narmore knowingly disobeyed the TRO. Tamura, 63 Haw. at 637, 633 P.2d at 1117.

III.

The district court's Judgment filed on September 13, 2004, is affirmed. We note, however, that the Judgment does not show that Narmore was convicted after a trial. We therefore

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remand this case and instruct the district court to file an Amended Judgment showing that Narmore was found guilty after trial.

DATED: Honolulu, Hawai'i, June 30, 2005.

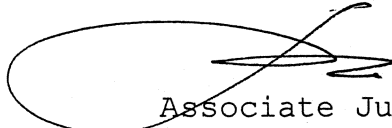
On the briefs:

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Anne K. Clarkin,  
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City and County of Honolulu,  
for Plaintiff-Appellee.

*Corinne K. A. Watanahe*

Acting Chief Judge

  
Associate Judge

*Craig H. Robinson*  
Associate Judge