

NOT FOR PUBLICATION

NO. 26861

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
PHILLIP A. WATSON, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(Cr. No. 04-1-0153)

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.)

Phillip A. Watson, aka Phillip Watson, Sr. and Chocolate (Defendant), appeals the September 7, 2004 judgment of the Circuit Court of the First Circuit (circuit court)¹ that convicted him of assault in the third degree, an included offense of the charge of assault in the second degree.

After a scrupulous 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 resolve Defendant's points of error as follows:

1. Assuming, *arguendo*, that the deputy prosecuting attorney did indeed make a mistake or commit an error in eliciting testimony about Defendant's previous contacts with the police, the mistake or error was harmless beyond a reasonable doubt. State v. McElroy, 105 Hawai'i 352, 356, 97 P.3d 1004, 1008 (2004).

2. By the same token, the circuit court's denial of

¹ The Honorable Virginia Lea Crandall presided.

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Defendant's oral motion for mistrial was not an abuse of discretion. Id. at 356-57, 97 P.3d at 1008-09.

3. There was substantial evidence to support Defendant's conviction. State v. Eastman, 81 Hawai'i 131, 135, 913 P.2d 57, 61 (1996).

Therefore,

IT IS HEREBY ORDERED that the circuit court's September 7, 2004 judgment is affirmed.

DATED: Honolulu, Hawai'i, November 15, 2005.

On the briefs:

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

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


Acting Chief Judge


Associate Judge


Associate Judge