

NOT FOR PUBLICATION

NO. 26222

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

NATHAN CHOI, Plaintiff-Appellee, v.
STEVEN VALO'T, Defendant-Appellant

E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

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FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(Civ. No. 1SS03-1-1391)

SUMMARY DISPOSITION ORDER

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

Respondent-Appellant Steven Valo't (Valo't) appeals from the October 17, 2003 Order Granting Petition for Injunction Against Harassment (Injunction) issued by the District Court of the First Circuit (district court).¹ After careful review of the issue raised and the arguments made by the parties, as well as the record of the proceedings before the district court and the relevant case law, we resolve Valo't's points of error as follows.

Valo't did not object to Petitioner-Appellee Nathan Choi's (Choi) playing of the videotape during the hearing and thus did not preserve his challenge to the implicit admission of the same on appeal. Hawaii Revised Statutes (HRS) § 641-2 (Supp. 2005), Hawaii Rules of Evidence, Rule 102, State v. Wallace, 80 Hawai'i 382, 410, 910 P.2d 695, 723 (1996) and Bailey v. Sanchez, 92 Hawai'i 312, 316, 990 P.2d 1194, 1198 (App. 1999).

¹ The Honorable Hilary Benson Gangnes presided.

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The district court's finding that Choi proved, by clear and convincing evidence, that Valo't committed acts of harassment, as defined by HRS § 604-10.5(a)(2) (Supp. 2005), was not clearly erroneous as it was supported by substantial evidence. Bailey, 92 Hawai'i at 316, 990 P.2d at 1198. The district court determined that Choi was a credible witness and Valo't was not and the appellate court gives due deference to this determination. Nani Koolau v. K&M Constr., 5 Haw. App. 137, 139-40, 681 P.2d 580, 584 (1984). Choi testified that his home, office and vehicle door locks were filled with glue and his vehicle's body was "keyed" and two tires flattened. Choi submitted copies of locksmith bills for repair of the locks. Mrs. Josephine Choi, Choi's wife, testified that she discovered the glue in their apartment door lock on her way to church the morning of September 16, 2003 and "was so afraid." Choi testified that this damage was discovered soon after Valo't received an unfavorable ruling in the lawsuit Valo't filed against Choi and his wife over access to the apartment rented by Valo't to the Chois, a dispute that began shortly after the Chois rented the unit. The district court specifically rejected Valo't's testimony that he was not angered by the ruling. The district court, after viewing the videotape of images taken at the Choi's apartment building approximately 11:50 on the evening of September 15, 2003 and aware of Valo't's appearance based on observation of Valo't at the hearing, found the person in the

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videotape to be Valo't. The building's general manager, familiar with both the security cameras' respective positions and the videotape shown, testified that had Valo't visited the building's bulletin boards as he testified, Valo't would have been captured in the images produced by those cameras, but was not. Based on the foregoing evidence and the reasonable inferences drawn therefrom, we are not firmly convinced that a mistake was made by the district court. Casumpang v. ILWU Local 142, 108 Hawai'i 411, 419, 121 P.3d 391, 399 (2005).

Therefore,

IT IS HEREBY ORDERED that the District Court of the First Circuit's October 17, 2003 Order Granting Petition for Injunction Against Harassment is affirmed.

DATED: Honolulu, Hawai'i, June 30, 2006.

On the briefs:

Bradley R. Pulice and
Mary Martin,
(Stanton Clay Chapman Crumpton
& Iwamura),
for Defendant-Appellant.

Nathan Choi,
Plaintiff-Appellee, pro se.


Acting Chief Judge


Associate Judge


Associate Judge