

NOT FOR PUBLICATION

NO. 26674

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
EDISON LEGASPI, Defendant-Appellant

K. HAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

2006 FEB 14 AM 9:50

FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 00-1-0701)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Edison Legaspi (Legaspi) appeals from the Order of Resentencing/Revocation of Probation filed on June 28, 2004 in the Circuit Court of the First Circuit^{1/} (circuit court). Legaspi's probation was revoked on his charges of Terroristic Threatening in the First Degree (Count I), in violation of Hawaii Revised Statutes (HRS) § 707-716 (1993), and Kidnapping (Count II), in violation of HRS § 707-720 (1993).

On appeal, Legaspi contends the circuit court abused its discretion in resentencing him to incarceration where a consideration of the factors set forth in HRS § 706-620 (Supp. 2004) warranted a resentence of probation.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we conclude that Legaspi's appeal is without merit. The record in

^{1/} The Honorable Steven S. Alm presided.

this case does not disclose an abuse of discretion by the circuit court when it (1) twice revoked Legaspi's probation and resentenced him to probation after the court found that he had violated his terms of probation and (2) finally revoked his probation for the third time and resentenced him to incarceration. State v. Kicklighter, 60 Haw. 314, 316, 588 P.2d 929, 931 (1979).

Therefore,

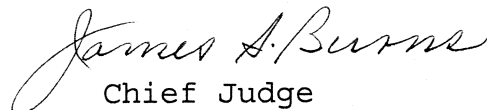
The Order of Resentencing/Revocation of Probation filed on June 28, 2004 in the Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, February 14, 2006.

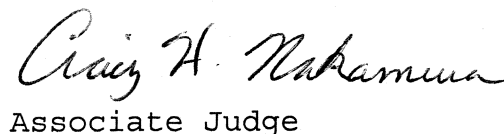
On the briefs:

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

Stephen K. Tsushima,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.


Chief Judge


Associate Judge


Associate Judge