

**NOT FOR PUBLICATION**

NO. 26831

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
JOSEPH STANFORD LEAK, JR., Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(CR. NO. 03-1-2412)

SUMMARY DISPOSITION ORDER

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

Joseph Stanford Leak, Jr. (Defendant) appeals the August 18, 2004 judgment of the Circuit Court of the First Circuit (circuit court)<sup>1</sup> that convicted him of Place to Keep Pistol or Revolver (Count V).

After a meticulous 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 dispose of Defendant's sole point of error on appeal as follows.

Defendant contends the circuit court erred in not giving the jury a proper choice of evils defense instruction. We disagree. There is absolutely nothing in the evidence adduced at trial to show the "imminent harm or evil[,]" Hawaii Revised Statutes (HRS) § 703-302(1) (1993) -- "an essential component of the choice of evils defense," State v. Yamamoto, 98 Hawai'i 208, 220, 46 P.3d 1092, 1104 (App. 2002) (citing HRS § 703-302(1)) -- that Defendant conjures on appeal.

<sup>1</sup>

The Honorable Michael D. Wilson presided.

NORMA T. YARA  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

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Therefore,


IT IS HEREBY ORDERED that the circuit court's August 18, 2004 judgment is affirmed.

DATED: Honolulu, Hawai'i, June 27, 2006


On the briefs:

James S. Tabe,  
Deputy Public Defender,  
for Defendant-Appellant.

Donn Fudo,  
Deputy Prosecuting Attorney,  
City and County of Honolulu,  
for Plaintiff-Appellee.

  
Acting Chief Judge

  
Associate Judge

  
Associate Judge