

NO. 27207

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
WILLIAM M. MARTINEZ, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
(HPD Cr. No. 04164118)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant William M. Martinez (Martinez)

appeals from the judgment entered on March 7, 2005 by the District Court of the First Circuit (the district court), Judge Leslie A. Hayashi presiding, convicting and sentencing him for the offense of Harassment, in violation of Hawaii Revised Statutes § 711-1106(1)(a) (Supp. 2005).<sup>1</sup>

Martinez contends that: (1) the district court erred in convicting him of Harassment because Plaintiff-Appellee State of Hawai'i failed to present sufficient evidence to prove beyond a reasonable doubt that he struck, shoved, kicked or otherwise touched the complaining witness (CW) in an offensive manner with the intent to harass, annoy, or alarm CW; and (2) he was denied

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<sup>1</sup> Hawaii Revised Statutes § 711-1106 (Supp. 2005) provides, in relevant part, as follows:

**Harassment.** (1) A person commits the offense of harassment if, with intent to harass, annoy, or alarm any other person, that person:

- (a) Strikes, shoves, kicks, or otherwise touches another person in an offensive manner or subjects the other person to offensive physical contact[.]

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his constitutional right to effective assistance of trial counsel because his trial counsel: (a) failed to introduce evidence of CW's motive to fabricate the harassment allegation, and (b) failed to attack CW's credibility by eliciting testimony that CW's petition to the family court for a temporary restraining order against Martinez had been denied because of her "dishonesty, i.e., bad act, as proof of motive in claiming that Martinez's apartment was her residence[.]"

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the statutes and case law relevant to the arguments advanced and issues raised by the parties, we disagree with Martinez.

As to Martinez's first contention, the record indicates that substantial evidence was adduced that Martinez struck the side of CW's head with a television remote control, causing CW to fall off her chair, hit her hip on a metal bed frame, and suffer a lump on her head and a red mark on her hip. Viewing the evidence in the strongest light for the prosecution, State v. Eastman, 81 Hawai'i 131, 135, 913 P.2d 57, 61 (1996), we conclude that sufficient evidence was adduced at trial from which the district court could reasonably infer that Martinez struck CW in an offensive manner or subjected CW to offensive physical contact with intent to harass, annoy, or alarm CW.

With respect to Martinez's second contention, the record indicates that the district court afforded Martinez's trial counsel considerable leeway to cross-examine CW about her

motives for pressing charges against Martinez and attack CW's credibility. Based on our review of the record, we cannot conclude that the assistance provided to Martinez by his trial counsel was outside the range of competence demanded of attorneys in criminal cases. State v. Wakisaka, 102 Hawai'i 504, 513-14, 78 P.3d 317, 326-27 (2003).

Accordingly, the judgment from which this appeal was taken is affirmed.

DATED: Honolulu, Hawai'i, October 25, 2006.

On the briefs:

Arthur N. Indiola  
for defendant-appellant.

Anne K. Clarkin,  
deputy prosecuting attorney,  
City and County of Honolulu,  
for plaintiff-Appellee.

*James A. Burns*

*Corinne K.A. Watanabe*

