

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 27294

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.  
JAMES GEORGE PLICHTA, Defendant-Appellant

NORMA T. YARA  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

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FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(CR. NO. 03-1-1723)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant James George Plichta (Plichta) appeals from the Judgment filed on April 12, 2005 in the Circuit Court of the First Circuit (circuit court).<sup>1/</sup>

On appeal, Plichta argues that (1) in contravention of Hawaii Revised Statutes (HRS) § 704-416 (1993) and State v. Domingo, 69 Haw. 68, 733 P.2d 690 (1987), the State of Hawaii (the State) adduced evidence of Plichta's alleged failure to disclose his delusional beliefs at the time of the incident to the panel of mental examiners and then used this evidence to attack his credibility with respect to his trial testimony regarding such beliefs; (2) the circuit court abused its discretion in denying Plichta's motion for a mistrial, which requested that defense counsel be disqualified so that defense counsel could testify to rehabilitate Plichta's credibility; and (3) the admission of Plichta's statements and the limiting

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<sup>1/</sup> The Honorable Karl K. Sakamoto presided.

instruction in violation of HRS § 704-416 constituted plain error and constitutional error that was not harmless beyond a reasonable doubt.

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 as raised by the parties, we conclude that HRS § 704-416 did not preclude the State's cross-examination of Plichta regarding statements pertaining to his beliefs in humanoids or aliens made by Plichta during his direct examination. State v. Samuel, 74 Haw. 141, 150-51, 838 P.2d 1374, 1379 (1992).

Therefore,

The Judgment filed on April 12, 2005 in the Circuit Court of the First Circuit is affirmed.

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

On the briefs:

Karen T. Nakasone,  
Deputy Public Defender,  
for Defendant-Appellant

  
Chief Judge

James M. Anderson,  
Deputy Prosecuting Attorney,  
for Plaintiff-Appellee.

  
Associate Judge

  
Associate Judge