

NO. 27295

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

STATE OF HAWAI'I, Plaintiff-Appellee, v
CRAIG ALLEN DOMINGO, Defendant-Appellant

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STATE OF HAWAI'I
E.M. RIMANDO

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FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 03-1-0331)

SUMMARY DISPOSITION ORDER

(By: Lim, Presiding Judge, Foley and Nakamura, JJ.)

Defendant-Appellant Craig Allen Domingo (Domingo) appeals from the Judgment filed on March 14, 2005 in the Circuit Court of the First Circuit (circuit court).^{1/}

On February 12, 2003, the State of Hawai'i (the State) charged Domingo via an Indictment with one count of Robbery in the First Degree (Count I), in violation of Hawaii Revised Statutes (HRS) § 708-840(1)(b)(ii) (1993 & Supp. 2005); one count of Kidnaping (Count II), in violation of HRS § 707-720(1)(e) (1993); and one count of Burglary in the First Degree (Count III), in violation of HRS § 708-810(1)(c) (1993).

On December 2, 2004, the jury returned a guilty verdict as to all three counts. On December 13, 2004, Domingo filed a Motion for a New Trial. Domingo asserted that the false trial testimony of Van Taylor, the State's witness, constituted

^{1/} The Honorable Michael A. Town presided.

sufficient grounds for a new trial. On February 10, 2005, the circuit court held a hearing on Domingo's motion. Taylor appeared and, on advice of her court-appointed counsel, chose to exercise her Fifth Amendment right not to take the stand and answer any questions. On March 14, 2005, the circuit court sentenced Domingo to concurrent terms of imprisonment of twenty years on Court I and ten years as to each of Counts II and III, with a mandatory minimum term of imprisonment of fifteen years. On March 17, 2005, the circuit court filed its Findings of Fact, Conclusions of Law and Order Denying Defendant's Motion for a New Trial. Domingo timely appealed.

On appeal, Domingo argues that the circuit court abused its discretion in denying his Motion for a New Trial.

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 in light of State v. Teves, 5 Haw. App. 90, 679 P.2d 136 (1984), the circuit court did not abuse its discretion in denying Domingo's Motion for a New Trial. Applying the Teves test to the instant case reveals that the allegations raised in Domingo's motion were insufficient to warrant a new trial. Domingo fails to advance any arguments to demonstrate to this court where the circuit court abused its discretion in denying his motion. Absent a clear showing of such an abuse of

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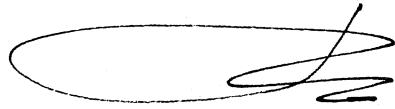
discretion, this court will not disturb the circuit court's Judgment. Hawai'i Rules of Penal Procedure (HRPP) Rule 33; Teves, 5 Haw. App. at 96, 679 P.2d at 141; State v. McNulty, 60 Haw. 259, 267-68, 588 P.2d 438, 445 (1978); State v. Crisostomo, 94 Hawai'i 282, 287, 12 P.3d 873, 878 (2000).

IT IS HEREBY ORDERED that the Judgment filed on March 14, 2005 in Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, December 8, 2006.

On the briefs:

James S. Tabe,
Deputy Public Defender,
on the Opening Brief
for Defendant-Appellant.



Presiding Judge

Keith S. Shigetomi
on the Reply Brief
for Defendant-Appellant



Associate Judge

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



Associate Judge