

NO. 26561

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
EDWARD HULAMA, Defendant-Appellant

APPEAL FROM THE FAMILY COURT OF THE SECOND CIRCUIT
(FC-Cr. No. 04-1-0130)

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SUMMARY DISPOSITION ORDER

(By: Watanabe, Presiding Judge, Foley and Fujise, JJ.)

Defendant-Appellant Edward Hulama (Hulama) appeals from the April 7, 2004 judgment of the Family Court of the Second Circuit (family court)¹ finding him guilty of the offense of Abuse of a Family or Household Member in violation of Hawaii Revised Statutes (HRS) § 709-906(4) (Supp. 2002).² Specifically, Hulama was convicted for "refusal to comply with the lawful order of a police officer" under HRS § 709-906(4).

After a careful review of the issues raised, arguments advanced, law relied upon, and the record in the instant case, we dispose of Hulama's points of error on appeal as follows:

1. The family court's finding that Hulama's wife, Kanani Hulama, was "the person who had called in for assistance" was not clearly erroneous. Given the prerogative of the trial court as the finder of fact to "draw reasonable and legitimate inferences and deductions from the evidence," State v. Kekona, 77

¹ The Honorable Eric G. Romanchak (per diem judge) presided.

² Hawaii Revised Statutes (HRS) § 709-906 was amended most recently by 2006 Haw. Sess. L. Act 230, § 46 at 1020-22.

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Hawai'i 403, 407, 886 P.2d 740, 744 (1994), there was substantial evidence to support the family court's finding. In any event, the identity of the caller was unnecessary to the determination of reasonable grounds to issue the warning citation.

2. The family court did not err in concluding that HRS § 709-906(4) authorized police to issue Hulama a warning citation based on any past incident of physical abuse or harm. Hulama argues that the plain language of the statute requires a temporal connection between the act of physical abuse and the issuance of the warning citation. However, the 1998 amendment to HRS § 709-906 removed the requirement that the physical abuse or harm be "recent." 1998 Haw. Sess. L. Act 172, § 8 at 645-47. See also, Supplemental Commentary on HRS § 709-906 (Supp. 2002); Hse. Stand. Comm. Rep. No. 578-98, in 1998 House Journal, at 1264.

3. Lastly, there was substantial evidence to support the family court's judgment. Under Kapela, 82 Hawai'i at 387, 922 P.2d at 1000 and State v. Cordero, 106 Hawai'i 381, 386 n.4, 105 P.3d 258, 263 n.4 (App. 2004), to sustain a conviction for HRS § 709-906(4), the State must prove beyond a reasonable doubt the following four elements:

(1) that a police officer had reasonable grounds to believe that there was []³ physical abuse or harm inflicted by Defendant upon Complainant, a family or household member;

(2) that the officer had reasonable grounds to believe that there was a probable danger of further physical abuse or harm being inflicted by Defendant upon Complainant;

³ In 1998, the Legislature amended HRS § 709-906(4) to remove the requirement that the physical abuse be "recent." 1998 Haw. Sess. L. Act 172, § 8 at 646.

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(3) that the officer issued a written warning citation to Defendant, ordering him to leave the home for a cooling-off period of twenty-four hours or a specified enlarged period if the incident occurred after 4:30 p.m. on any Friday, or on any Saturday, Sunday or legal holiday; and

(4) that Defendant returned to the home before the expiration of the cooling-off period.

Kapela, 82 Hawai'i at 387, 922 P.2d at 1000 (footnote added).

Given the record below, and that such evidence will be considered in the light most favorable to the State, id., there was substantial evidence to support the family court's decision that the State proved beyond a reasonable doubt all the elements to sustain a conviction under HRS § 709-906(4).

Therefore,

IT IS HEREBY ORDERED that the April 7, 2004 judgment of the Family Court of the Second Circuit is affirmed.

DATED: Honolulu, Hawai'i, March 19, 2007.

On the briefs:

Deborah L. Kim,
Deputy Public Defender.
for Defendant-Appellant.


Presiding Judge

Peter A. Hanano,
Deputy Prosecuting Attorney,
County of Maui
for Plaintiff-Appellee.


Associate Judge


Associate Judge