

NO. 27323

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
VILAYPHAN ZORZI, Defendant-Appellant

E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

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FILED

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-CRIMINAL NO. 05-1-1013)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Vilayphan Zorzi (Zorzi) appeals from the Judgment of Conviction and Sentence filed on May 24, 2005 in the Family Court of the First Circuit (family court).^{1/} On April 1, 2005, the State of Hawai'i (the State) charged Zorzi via an Amended Complaint with one count of Abuse of Family or Household Members, in violation of Hawaii Revised Statutes (HRS) § 709-906 (Supp. 2005). The Amended Complaint alleged that on or about December 18, 2004, Zorzi did intentionally, knowingly, or recklessly physically abuse the complaining witness. On May 19, 2005, the jury returned a guilty verdict. The family court entered its judgment on May 24, 2005, and Zorzi timely appealed on May 26, 2005.

On appeal, Zorzi argues that (1) there was insufficient evidence adduced at trial to support her conviction, and (2) the

^{1/} The Honorable Patrick W. Border presided.

family court erred in precluding her from testifying about prior incidents involving the complaining witness to establish her state of mind as part of her theory of self-defense.

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:

(1) There was substantial evidence adduced at trial to support the family court's finding that Zorzi did recklessly, intentionally, or knowingly physically abuse the complaining witness, thereby committing the offense of Abuse of Family or Household Members on December 18, 2004. HRS § 709-906; HRS § 701-114 (1993); HRS § 702-205 (1993); HRS § 702-208 (1993); HRS §§ 702-206(3)(c) and (d) (1993); State v. Grace, 107 Hawai'i 133, 139, 111 P.3d 28, 34 (App.), cert. denied, 107 Hawai'i 348, 133, P.3d 799 (2005); State v. Naeole, 62 Haw. 563, 565, 617 P.2d 820, 823 (1980); State v. Cordero, 106 Hawai'i 381, 386 n.6, 105 P.3d 258, 263 n.6 (App. 2004); State v. Eastman, 81 Hawai'i 131, 135, 913 P.2d 57, 61 (1996).

(2) The family court did not abuse its discretion in denying Zorzi's motion in limine to admit the prior incident involving the complaining witness. Hawaii Rules of Evidence Rules 401, 402, 403, and 404; State v. Pinero, 70 Haw. 509, 516, 778 P.2d 704, 710 (1989); State v. Renon, 73 Haw. 23, 32, 828

P.2d 1266, 1270 (1992); State v. Clark, 83 Hawai'i 289, 300, 926 P.2d 194, 205 (1996); Kaeo v. Davis, 68 Haw. 447, 454, 719 P.2d 387, 392 (1986); State v. Cordeiro, 99 Hawai'i 390, 404, 56 P.3d 692, 706 (2002); State v. St. Clair, 101 Hawai'i 280, 286, 67 P.3d 779, 785 (2003); State v. Adam, 97 Hawai'i 413, 418, 38 P.3d 581, 587 (App. 2001).

Therefore,

The Judgment of Conviction and Sentence filed on May 24, 2005 in the Family Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, February 9, 2007.


On the briefs:

Leland B. T. Look
for Defendant-Appellant.

Brian R. Vincent,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.


Presiding Judge


Associate Judge


Associate Judge