

NO. 27720

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.  
ROBERT K. ASAM, Defendant-Appellant

EM. RIMANDO  
CHIEF, APPELLATE COURTS  
STATE OF HAWAII

2007 APR 10 AM 9:00

FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
(Cr. No. 05354761)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Robert K. Asam (Asam) appeals from the Judgment and Sentence entered by the District Court of the First Circuit (the district court)<sup>1</sup> on December 13, 2005. Asam was convicted of Harassment, in violation of Hawaii Revised Statutes § 711-1106 (Supp. 2006).<sup>2</sup>

Asam contends that the district court erred in convicting him of Harassment because Plaintiff-Appellee State of

---

<sup>1</sup> The Honorable Lono J. Lee presided.

<sup>2</sup> The relevant part of Hawaii Revised Statutes § 711-1106 (Supp. 2006) provides:

**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 . . . .

. . . .

- (2) Harassment is a petty misdemeanor.

Hawai'i failed to present sufficient evidence to prove beyond a reasonable doubt that he struck, shoved, kicked, or otherwise touched the complaining witness (the CW) in an offensive manner with the intent to harass, annoy, or alarm the CW.

Upon careful review of the record and the briefs submitted by the parties, and having given due consideration to the case law and statutes relevant to the arguments advanced and the issues raised, we disagree with Asam.

The record indicates that substantial evidence was adduced that Asam pushed the CW, Asam came into the CW's office agitated and yelling, the push followed a heated argument, and the CW was "alarmed" after being pushed by Asam. Viewing the evidence in the light strongest for the prosecution, State v. Martinez, 101 Hawai'i 332, 338, 68 P.3d 606, 612 (2003), we conclude that there was sufficient evidence adduced to support a finding that Asam pushed the CW with the requisite intent to harass, annoy, or alarm. State v. Stocker, 90 Hawai'i 85, 92, 976 P.2d 399, 406 (1999) (circumstantial evidence and reasonable inferences arising from defendant's conduct sufficient to ascertain defendant's state of mind).

**NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER**

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

DATED: Honolulu, Hawai'i, April 10, 2007.

On the briefs:

Alen M. K. Kaneshiro,  
deputy public defender,  
State of Hawai'i,  
for defendant-appellant.

Daniel H. Shimizu,  
deputy prosecuting attorney,  
City and County of Honolulu,  
for plaintiff-appellee.

*James A Burns*

*Corinne K A Watanabe*

*Daniel R. Foley*