

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 28062

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
JONATHAN D. FONTES, Defendant-Appellant

KHAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

2007 SEP 24 AM 7:46

FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT,
KANEHOE DIVISION
(CASE NO. 1P706-44)

SUMMARY DISPOSITION ORDER

(By: Recktenwald, C.J., Foley and Nakamura, JJ.)

Defendant-Appellant Jonathan D. Fontes (Fontes) appeals the Judgment filed on June 23, 2006 in the District Court of the First Circuit, Kaneohe Division^{1/} (district court). The district court found Fontes guilty of Harassment pursuant to Hawaii Revised Statutes (HRS) § 711-1106(1)(a) (Supp. 2006).

On appeal, Fontes claims as his sole point of error that the district court lacked sufficient evidence to convict.

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 raised by the parties, we hold that, considered in the light most favorable to the State, the district court had sufficient evidence to convict Fontes. HRS § 711-1106(1)(a) requires that to convict Fontes, the State had to prove beyond a reasonable doubt that he struck or otherwise touched his mother in an offensive manner with intent to harass, annoy, or alarm her. Fontes contends the State "failed to present sufficient evidence to prove that Fontes shoved [his mother] in an offensive manner with the specific intent to harass, annoy or alarm" his mother. Fontes concedes he

^{1/} The Honorable Gerald Kibe presided.

made contact with his mother, but argues that he was simply trying to leave the bathroom and found his mother blocking his way. The testimony of Fontes' mother, and the reasonable inferences to be drawn therefrom, are sufficient evidence that Fontes shoved his mother in an offensive manner with requisite state of mind (as defined in HRS § 702-206 (1993)).

Therefore,

The Judgment filed on June 23, 2006 in the District Court of the First Circuit, Kaneohe Division, is affirmed.

DATED: Honolulu, Hawai'i, September 24, 2007.

On the briefs:

Katie L. Lambert,
Deputy Public Defender,
for Defendant-Appellant.

Anne K. Clarkin,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.



Chief Judge



Associate Judge



Associate Judge