

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 28138

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
WILLIS S. WROBLEWSKI, Defendant-Appellant

NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAII

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FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 04-1-1633)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Willis S. Wroblewski (Wroblewski) appeals from the Order Denying Defendant's Motion to Correct an Illegal Sentence filed on August 14, 2006 in the Circuit Court of the First Circuit^{1/} (circuit court).

On August 19, 2004, the State of Hawaii (State) indicted Wroblewski for Count I, Accidents Involving Serious Bodily Injury, in violation of Hawaii Revised Statutes (HRS) § 291C-12 (1993); and Count II, Unauthorized Control of Propelled Vehicle in violation of HRS § 708-836 (Supp. 2006). Wroblewski pled no contest to the charges.

Prior to Wroblewski's sentencing, the State filed a Motion for Extended Terms of Imprisonment of a Multiple Offender. On October 7, 2005, the circuit court sentenced Wroblewski, pursuant to HRS §§ 706-661 (Supp. 2005) and 706-662(4)(a) (Supp. 2005), as a multiple offender to extended terms of imprisonment of twenty years on Count I and ten years on Count II, with a mandatory minimum term of imprisonment of one year and eight months on each of the two counts. The circuit court entered its Judgment of Conviction and Sentence the same day. Wroblewski did not appeal from the judgment.

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

On June 23, 2006, pursuant to Hawai'i Rules of Penal Procedure Rule 35, Wroblewski filed a Motion to Correct Illegal Sentence. After a hearing, the circuit court denied the motion on August 14, 2006. Wroblewski timely appealed.

On appeal, Wroblewski contends the circuit court's extended sentences under HRS § 706-662(4)(a) were imposed in violation of his constitutional rights under the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution, as explicated in Apprendi v. New Jersey, 530 U.S. 466, 120 S. Ct. 2348 (2000), and its progeny that require a jury to determine the factual finding requisite to imposition of the extended sentence.

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 conclude that Wroblewski's extended terms of imprisonment were appropriate and lawful under HRS § 706-662(4)(a). State v. Rivera, 106 Hawai'i 146, 102 P.3d 1044 (2004), cert. denied, 546 U.S. 829, 126 S. Ct. 45 (2005). Accordingly, Wroblewski's constitutional rights were not violated by the imposition of the sentences. Therefore,

The Order Denying Defendant's Motion to Correct an Illegal Sentence filed August 14, 2006 in the Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, August 31, 2007.

On the briefs:

Phyllis J. Hironaka,
Deputy Public Defender,
for Defendant-Appellant.

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



Chief Judge



Associate Judge



Associate Judge