

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 28111

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

JANE LIU, Petitioner-Appellant, v.
STATE OF HAWAII, Respondent-Appellee

NORMA T. YARA
CLERK APPELLATE COURTS
STATE OF HAWAII

2008 MAY -6 AM 8:54

FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(CIVIL NO. 1SD06-1-2)

SUMMARY DISPOSITION ORDER

(By: Recktenwald, C.J., Nakamura, Leonard, JJ.)

Defendant-Appellant Jane Liu (**Liu**) appeals the Order Denying Petition for Post-Conviction Relief filed on July 24, 2006 in the District Court of the First Circuit, Honolulu Division (**District Court**).¹

On appeal, Liu contends the District Court erred when it denied her Third Petition for Post-Conviction Relief (**Third Petition**), pursuant to Hawaii Rules of Penal Procedure (**HRPP**) Rule 40 because: (1) "the court session had not proved all three elements of crime beyond reasonable doubt as required by HRS Sections 701-114(1)(2), 701-115(1)(2), and 701-116(1)(2), especially the intent"; (2) Liu's confession was obtained in violation of her right against self-incrimination; (3) Liu's chance of acquittal was "smothered" by ineffective assistance of counsel; (4) there was prosecutorial misconduct in indicting Liu for harassment; and (5) Liu's suspended sentence violated the 1st, 4th, 5th, 6th, 8th, 9th, and 14th Amendments to the United States Constitution.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to

¹ The Honorable Colette Y. Garibaldi presided.

the arguments advanced and the issues raised by the parties, we resolve Liu's points of error as follows:

The District Court did not err when it denied Liu's Third Petition. Liu's sufficiency of the evidence claim was previously ruled upon in her direct appeal² and in her Second Petition for Post-Conviction Relief (**Second Petition**)³ pursuant to HRPP Rule 40. Liu's claim that her confession was obtained in violation of her right against self-incrimination was previously ruled upon in the Second Petition. Liu's claim of ineffective assistance of trial and appellate counsel was previously ruled upon in her Second Petition. Relief under HRPP Rule 40 cannot be granted where the issues raised were previously ruled upon. HRPP Rule 40(a)(3). Liu does not put forth any cognizable argument regarding prosecutorial misconduct. Similarly, Liu makes no argument why her suspended sentence violated her rights under the 1st, 4th, 5th, 6th, 8th, 9th, and 14th Amendments to the United States Constitution. Points not argued on appeal are deemed waived. See Hawaii Rules of Appellate Procedure Rule 28(b)(7).

For these reasons, the District Court's July 24, 2006 Order Denying Petition for Post-Conviction Relief is affirmed.

DATED: Honolulu, Hawai'i, May 6, 2008.

On the briefs:

Jane J.P. Liu
Pro Se Petitioner-Appellant

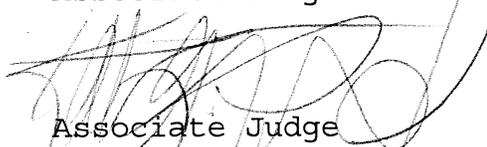
Peter B. Carlisle
Prosecuting Attorney
Anne K. Clarkin
Deputy Prosecuting Attorney
for Respondent-Appellee



Chief Judge



Associate Judge



Associate Judge

² On October 22, 1986, Liu was convicted of harassment, in violation of Hawaii Revised Statutes § 711-1106. Liu's conviction was affirmed by the Hawai'i Supreme Court in No. 12131.

³ Denial of Liu's Second Petition was affirmed in No. 25385.