

NO. 28838

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
MICHAEL WOODFALL, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(Cr. No. 06-1-0430)

E.L. RIMANIDO  
CLERK, APPELLATE COURTS  
STATE OF HAWAI'I

2008 OCT 30 AM 7:59

FILED

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Michael Woodfall, also known as Michael Dean Woodfall (Woodfall) appeals from the Judgment of Conviction and Sentence entered on October 10, 2007 and challenges the "Findings of Fact, Conclusions of Law, and Order Denying Motion to Dismiss Count I of the Complaint" (Order), filed on February 23, 2007 in the Circuit Court of the First Circuit, (circuit court).<sup>1</sup>

On January 17, 2007, Woodfall pleaded no contest to Count II Forgery in the Second Degree, a violation of Hawaii Revised Statutes (HRS) § 708-852 (Supp. 2007), and Count III Attempted Theft in the Second Degree, a violation of HRS §§ 705-500 and 708-831(1)(b) (Supp. 2007). Woodfall does not appeal those convictions.

On June 15, 2007, Woodfall entered a conditional plea in which he pleaded guilty to Count I, Identity Theft in the Second Degree, a violation of HRS § 708-839.7 (Supp. 2007), but reserved his right to appeal the denial of his "Motion to Dismiss Count I of the Complaint" for Identity Theft in the Second Degree (Motion to Dismiss).

On appeal, Woodfall contends the circuit court erred by denying his Motion to Dismiss. Woodfall argues that the circuit court's interpretation of HRS § 708-839.7 was wrong because he

<sup>1</sup> The Honorable Richard K. Perkins presided.

must have transmitted the personal information of another real person, not a fictitious person, to be convicted of Identity Theft in the Second Degree.

Upon careful review of the record and the applicable authority and having given due consideration to the arguments advanced and the issues raised by the parties, we resolve Woodfall's point of error as follows:

The circuit court's interpretation of HRS § 708-839.7 was not wrong. The statutory language of HRS § 708-839.7 when read with the definition of "personal information" provided in HRS § 708-800 supports the circuit court's determination that under HRS § 708-839.7, a person commits the offense of identity theft in the second degree if he or she transmits any personal information of an actual or fictitious person with the intent to commit the offense of theft in the second degree. See Holi v. AIG Hawaii Ins. Co., Inc., 113 Hawai'i 196, 201-02, 150 P.3d 845, 850-51 (App. 2007) cert. rejected, 114 Hawai'i 226, 160 P.3d 436 (2007); Conf. Comm. Rep. No. 25, reprinted in House Journal at 1765 (2002). Woodfall admitted that he used a fictitious identity with the intent to commit theft in the second degree.

Therefore,

IT IS HEREBY ORDERED that the Judgment of Conviction and Sentence, filed on October 10, 2007 in the Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, October 30, 2008.

On the briefs:

Jon N. Ikenaga,  
Deputy Public Defender,  
for Defendant-Appellant.

Delanie D. Prescott-Tate,  
Deputy Prosecuting Attorney,  
City and County of Honolulu,  
for Plaintiff-Appellee.



Chief Judge



Associate Judge



Associate Judge