

**NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER**

NO. 28371

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
YOSI ELHARAR, Defendant-Appellant

*Jean Kikuyama*  
CLERK, APPELLATE COURTS  
STATE OF HAWAI'I

2009 OCT 15 AM 7:49

FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT,  
HONOLULU DIVISION  
(HPD Cr. No. 06409628)  
(1P106-16680)

SUMMARY DISPOSITION ORDER

(By: Nakamura, C.J., Watanabe, and Leonard, JJ.)

Defendant-Appellant Yosi Elharar (Elharar) appeals from the judgment entered by the District Court of the First Circuit, Honolulu Division (district court)<sup>1</sup> on December 14, 2006 (Judgment), convicting and sentencing him for Street Solicitation of Prostitution in Waikiki in violation of Hawaii Revised Statutes (HRS) § 712-1207(1) (Supp. 2008)<sup>2</sup> (Street Solicitation).

Elharar raises two arguments on appeal: (1) the district court erred in holding that HRS § 712-1207 applies to persons who solicit prostitutes, as well as prostitutes; and (2) there was insufficient evidence, as a matter of law, for the district court to conclude that Elharar was guilty of Street Solicitation.

In light of our recent opinion in State v. Espinosa, 120 Hawai'i 478, 210 P.3d 1 (App. 2009), we agree with Elharar's first argument. Accordingly, we reverse the Judgment. Our

---

<sup>1</sup> The Honorable Fa'auuga To'oto'o presided.

<sup>2</sup> HRS § 712-1207 provides currently, as it did at the time Elharar allegedly committed Street Solicitation, in relevant part, as follows:

**Street solicitation of prostitution; designated areas.**

(1) It shall be unlawful for any person within the boundaries of Waikiki and while on any public property, to offer or agree to engage in sexual conduct with another person in return for a fee.

disposition of Elharar's first argument on appeal renders it unnecessary to reach Elharar's second argument.

DATED: Honolulu, Hawai'i, October 15, 2009.

On the briefs:

Earle A. Partington  
for Defendant-Appellant.

*Craig H. Nakamura*

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

*Corinne K. A. Watareshe*  
