

NO. 28437

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
CARLOS MONTANEZ, Defendant-Appellant

E. J. RIVARDO
CLERK APPELLATE COURTS
STATE OF HAWAI'I

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FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(HPD Cr. No. 06406762)
(1P106-16399)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Carlos Montanez (Montanez) appeals from the judgment entered by the District Court of the First Circuit (district court)¹ on February 20, 2007 (Judgment), convicting and sentencing him for Street Solicitation of Prostitution in Waikiki, in violation of Hawaii Revised Statutes (HRS) § 712-1207(1) (Supp. 2008)² (Street Solicitation).

Montanez raises two arguments on appeal: (1) the district court erred in holding that HRS § 712-1207(1) 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 Montanez 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 Montanez's first argument. Accordingly, we reverse the Judgment. Our

¹ The Honorable Fa'auuga To'oto'o presided.

² HRS § 712-1207(1) provides currently, as it did at the time Montanez 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 Montanez's first argument on appeal renders it unnecessary to reach Montanez's second argument.

DATED: Honolulu, Hawai'i, October 22, 2009.

On the briefs:

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