

NO. 28529

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
DONOVAN WEBB, Defendant-Appellant

EMERSON
CLERK, APPELLATE COURTS
STATE OF HAWAII

2009 MAY 28 AM 8:26

FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(HPD Criminal No. 06409560 (1P106-16393))

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Donovan Webb (Webb) appeals from the Judgment filed in the District Court of the First Circuit, Honolulu Division¹ (district court) on April 2, 2007, convicting him of street solicitation of prostitution in violation of Hawaii Revised Statutes (HRS) § 712-1207 (Supp. 2008) and sentencing him to a one-month term of probation with geographical restriction, a \$500 fine, and \$105 in fees.²

On appeal, Webb raises three issues: (1) whether the prosecution engaged in misconduct during trial, (2) whether there was insufficient foundation for the admission of testimony regarding the meaning of certain terms used by the prosecution's witness, and (3) whether there was sufficient evidence to support Webb's conviction.

However, in State v. Espinosa, No. 29094, 2009 WL 1154876 (Haw. App. April 30, 2009), we held that HRS § 712-1207 unambiguously excluded "a patron of a prostitute, such as Espinosa, from criminal liability under that statute." Slip. op.

¹ The Honorable Michael Marr presided.

² Webb's sentence was stayed pending this appeal.

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

at 3. Therefore, Webb's conviction must also be reversed and it is unnecessary to reach the issues he raises in his appeal.

Accordingly, the Judgment filed in the District Court of the First Circuit, Honolulu Division on April 2, 2007 is hereby reversed.

DATED: Honolulu, Hawai'i, May 28, 2009.

On the briefs:

David A. Sereno,
for Defendant-Appellant.

Corinne K. A. Watanabe

Acting Chief Judge

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

Court Nakamura

Associate Judge

Aewa Ota Fojin

Associate Judge