

NO. 29176

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
BRYCE K.Y. SPENCER, Defendant-Appellant

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FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT,
HONOLULU DIVISION
(HPD Criminal No. 6075543MO (1P107-18526))

SUMMARY DISPOSITION ORDER

(By: Foley, Presiding Judge, Nakamura and Fujise, JJ.)

Defendant-Appellant Bryce K.Y. Spencer (Spencer) appeals from the Judgment filed on April 29, 2008 in the District Court of the First Circuit, Honolulu Division (district court).¹

On April 29, 2008, the district court convicted Spencer of Disorderly Conduct, in violation of Hawaii Revised Statutes (HRS) § 711-1101(1)(a) (1993 & Supp. 2008).

On appeal, Spencer contends there is insufficient evidence to convict him of Disorderly Conduct because the State of Hawai'i (State) failed to show that Spencer intended to cause physical inconvenience or alarm by a member or members of the public.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, as well as the relevant statutory and case law, we resolve Spencer's point of error as follows:

When the evidence adduced at trial is considered in the strongest light for the prosecution, there was sufficient

¹ The Honorable Leslie A. Hayashi presided.

evidence to convict Spencer of Disorderly Conduct. State v. Matavale, 115 Hawai'i 149, 157-58, 166 P.3d 322, 330-31 (2007). Spencer yelled at the complaining witness, challenged him to a fight, and attempted to strike him. Contrary to Spencer's argument, Spencer's conduct recklessly created a risk of causing physical inconvenience or alarm. Spencer followed the complaining witness and his friends into a building in which Spencer did not reside in order to confront the complaining witness. Spencer's conduct caused numerous onlookers to yell at him to stop. Spencer's conduct recklessly caused alarm.

Spencer's argument that there were no members of the public present is also without merit. "'Public' means affecting or likely to affect a substantial number of persons." HRS § 711-1100 (1993). There was evidence that there were a "bunch of people" standing in front of the building, about twenty people standing in the lobby of the building, and five room assistants inside the lobby who witnessed the incident.

Spencer's argument that the incident took place in a private building rather than a public place and that what occurred was private conduct between two people in a private building is also without merit. Spencer's conduct was committed in a public place as defined in HRS § 711-1100. "'Public place' means a place to which the public or a substantial group of persons has access and includes . . . lobbies, and other portion of apartment houses and hotels not constituting rooms or apartments designed for actual residence." HRS § 711-1100. "'Private place' means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but does not include a place to which the public or a substantial group thereof has access." HRS § 711-1100. The incident started outside of the building, which was a dormitory, and progressed into the lobby of the building. The lobby of the dormitory was a public place within the meaning of HRS § 711-1100.

Therefore,

The Judgment filed on April 29, 2008 in the District Court of the First Circuit, Honolulu Division, is affirmed.

DATED: Honolulu, Hawai'i, July 2, 2009.

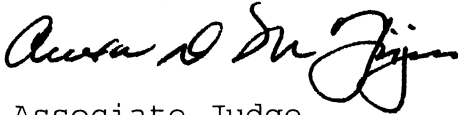
On the briefs:

Sandra Kim,
Deputy Public Defender,
for Defendant-Appellant.


Presiding Judge

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


Associate Judge


Associate Judge