

NO. 29646

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
LESLIE CLEMENT, Defendant-Appellant

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-Cr. No. 08-1-2364)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Leslie Clement (Clement) appeals the Judgment of Conviction and Sentence, entered on January 21, 2009, in the Family Court of the First Circuit (family court).¹

Clement was convicted of Harassment, in violation of Hawaii Revised Statutes § 711-1106 (Supp. 2008).

On appeal, Clement contends there was insufficient evidence to convict him of Harassment because the State failed to prove (1) that he struck, shoved, kicked, or otherwise touched the complaining witness in an offensive manner and (2) he intended to harass, annoy, or alarm the complaining witness.

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, we resolve Clement's points of error as follows:

(1) The evidence adduced at trial, considered in the light most favorable to the prosecution, demonstrated that Clement struck, shoved, kicked, or otherwise touched the complaining witness in an offensive manner while she was sitting in the passenger seat of his vehicle.

(2) Clement's intent to harass, annoy, or alarm may be inferred from his actions. State v. Stocker, 90 Hawai'i 85, 92, 976 P.2d 399, 406 (1999). There was substantial evidence that

¹ Per diem Family Court Judge Gale L.F. Ching presided.

Clement intended to harass, annoy, or alarm the complaining witness by hitting her in response to her turning down the radio after he previously turned it up twice.

Therefore,

IT IS HEREBY ORDERED THAT the January 21, 2009 Judgment of Conviction and Sentence of the Family Court of the First Circuit, is affirmed.

DATED: Honolulu, Hawai'i, November 30, 2009.

On the briefs:

Setsuko Regina Gormley,
Deputy Public Defender,
for Defendant-Appellant.

Chief Judge

Brian R. Vincent,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.

Associate Judge

Associate Judge