

NO. 26692

IN THE SUPREME COURT OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee,
vs.
DANNY H. HAILI, Defendant-Appellant.

E.M. RIMANDO
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STATE OF HAWAII

2005 MAY 24 AM 9:48

FILED

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 96-1163)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy JJ.)

Defendant-appellant Danny Haili appeals from the June 29, 2004 judgment of the first circuit court, the Honorable Karen Ahn presiding, convicting him of murder in the second degree in violation of Hawai'i Revised Statutes (HRS) § 707-701.5(1) (1993) and sentencing him to an indeterminate term of life imprisonment with the possibility of parole pursuant to HRS § 706-656 (1993 & Supp. 2004), including a mandatory minimum term of fifteen years' imprisonment pursuant to HRS § 706-660.1(1)(a) (1993).

Upon carefully reviewing the record and the briefs submitted by the parties, and having given due consideration to the arguments advocated and the issues raised, we affirm the circuit court's June 29, 2004 judgment. Specifically, we hold as follows: (1) the prosecution's rebuttal argument did not misstate the law on the defense of extreme mental or emotional disturbance. See HRS § 707-702 (1993 & Supp. 2004); State v.

Kaiama, 81 Hawai'i 15, 25-26, 911 P.2d 735, 745-46 (1996);

(2) the prosecution's rebuttal argument, in which the prosecution argued that Haili was asking for a "break," was not plainly erroneous. See State v. Ganai, 81 Hawai'i 358, 375-76, 917 P.2d 370, 387-88 (1996); and (3) assuming arguendo that the prosecution's personal comments as to the evidence and defense counsel were improper, the comments were harmless beyond a reasonable doubt. See State v. Pacheco, 96 Hawai'i 83, 93, 26 P.3d 572, 582 (2001). Therefore,

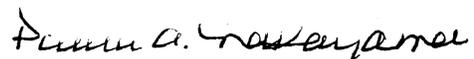
IT IS HEREBY ORDERED that the circuit court's June 29, 2004 judgment of conviction and sentence is affirmed.

DATED: Honolulu, Hawai'i, May 24, 2005.

On the briefs:

Samuel P. King, Jr.
for defendant-appellant
Danny H. Haili

Mark Yuen,
Deputy Prosecuting Attorney,
for plaintiff-appellee
State of Hawai'i



Kenneth E. Duffy, Sr.