

*** NOT FOR PUBLICATION ***

NO. 25488

IN THE SUPREME COURT OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee

vs.

JULIAN MARCUS MANCE, Defendant-Appellant

EMERSON
APPELLATE COURTS
STATE OF HAWAII

2006 APR 17 PM 2:47

FILED

APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT
(CASE NO. LCT2: 10/21/02)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Julian Marcus Mance ("Mance")

appeals from the denial of his oral motion for judgment of acquittal on October 21, 2002, and the judgment of the District Court of the Second Circuit¹ ("district court") filed on October 21, 2002, in which Mance was found guilty of criminal contempt of court under Hawai'i Revised Statutes (HRS) § 710-1077(1)(g) (1993)² due to (1) failure to appear in Lahaina for a proof of compliance hearing on May 20, 2002, and (2) failure to pay an outstanding \$25 fine incident to a prior shoplifting conviction. Mance argues on appeal that court erred in denying his motion for judgment of acquittal, and that Plaintiff-Appellee

¹ The Honorable Douglas Ige presided.

² HRS § 710-1077(1)(g) (1993) reads in pertinent part:

(1) A person commits the offense of criminal contempt of court if:

. . . .

(g) The person knowingly disobeys or resists the process, injunction, or other mandate of a court

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State of Hawai'i ("prosecution") failed to adduce substantial evidence that Mance knowingly³ evaded the process of the district court by presenting himself in Wailuku on May 20, 2002, when the hearing in question was actually held in Lahaina, such that his criminal contempt of court conviction must be reversed. Mance does not challenge the conviction on the basis of his failure to pay the \$25 fine.

Upon carefully reviewing of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised, we hold as follows:

(1) Viewing the evidence in a light most favorable to the prosecution, a reasonable mind could fairly conclude that the Lahaina court ordered Mance to appear in Lahaina, not Wailuku, on May 20, 2002, and that Mance's appearance at the wrong court despite an instruction to appear in Lahaina on that date constituted conscious, knowing disobedience of that order beyond a reasonable doubt. See State v. Keawe, 107 Hawai'i 1, 4, 108 P.3d 304, 307 (2005). Consequently, the lower court did not err in denying Mance's motion for judgment of acquittal.

(2) By introducing disposition slips from the Lahaina court stating when Mance was supposed to return to court, in particular the slip ordering Mance to appear in Lahaina on

³ See HRS § 702-206(2)(a) (1993) ("A person acts knowingly with respect to his conduct when he is aware that his conduct is of that nature.").

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May 20, 2002, which he signed and admitted receiving, the prosecution adduced credible evidence of sufficient quality and probative value to enable a person of reasonable caution to find Mance guilty of criminal contempt of court. See State v. Maldonado, 108 Hawai'i 436, 442, 121 P.3d 901, 907 (2005). When considering the evidence in the strongest light for the prosecution, the trial judge could rationally infer that Mance knowingly failed to comply with the court's order to appear in Lahaina, and thereby conclude beyond a reasonable doubt that Mance was aware that his appearance in Wailuku instead of Lahaina was in disobedience of the Lahaina court's mandate. See State v. Eastman, 81 Hawai'i 131, 135, 913 P.2d 57, 61 (1996).

Accordingly, Mance's conviction must be upheld. Therefore,

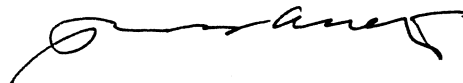
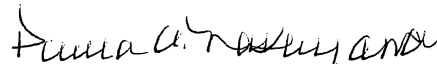
IT IS HEREBY ORDERED that the judgment from which the appeal is taken is affirmed.

DATED: Honolulu, Hawai'i, April 17, 2006.

On the briefs:

George A. Burke and
Deborah L. Kim, deputy
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for Defendant-Appellant
Julian Marcus Mance

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State of Hawai'i



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