

CONCURRING AND DISSENTING OPINION BY DUFFY, J.

I concur with the majority opinion with one exception: I believe the Intermediate Court of Appeals (ICA) erred in its finding that the circuit court's jury instruction on self-defense was proper. State v. Pond, 117 Hawai'i 336, 351, 181 P.3d 415, 430 (App. 2007). In my view, the jury instruction given was improper and prejudicial for the reasons stated by Justice Acoba in his Concurring and Dissenting Opinion, whose analysis I agree with on this point.

*James E. Duffy, Jr.*