

NOT FOR PUBLICATION

NO. 23973

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

HABIBOLLAH ATLASSI, aka HABIB ATLASSI, Plaintiff-Appellee,
v. JOHN ORVILLE NOBLE, Defendant-Appellant, and JOHN
DOES 1-10, JANE DOES 1-10, DOE BUSINESS ENTITIES 1-10,
and DOE GOVERNMENTAL ENTITIES 1-10, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(Civ. No. 97-0918(2))

SUMMARY DISPOSITION ORDER

(By: Watanabe, Acting C.J., Lim, and Foley, JJ.)

Defendant-Appellant John Orville Noble (Noble), *pro se*, appeals from the November 20, 2000 Final Judgment entered by the Circuit Court of the Second Circuit (the circuit court) against Noble and in favor of Plaintiff-Appellee Habibollah Atlassi, also known as Habib Atlassi (Atlassi), awarding Atlassi \$261,278.96 in damages for injuries sustained during an attack by Noble on the morning of December 13, 1996.

As a result of the incident which led to this civil lawsuit, Noble was criminally convicted of one count of Assault in the Second Degree, in violation of Hawaii Revised Statutes (HRS) § 707-711(1)(d) (1993), and three counts of Terroristic Threatening in the First Degree, in violation of HRS § 707-716(1)(d) (1993), and sentenced to five years' imprisonment "to run concurrently in all counts[.]" On appeal, Noble's conviction was affirmed by the Hawai'i Supreme Court in a Summary

NOT FOR PUBLICATION

Disposition Order entered on November 13, 1998.¹ Based on Noble's affirmed conviction for Assault in the Second Degree, the circuit court granted partial summary judgment in Atlassi's favor on the issue of Noble's tortious liability to Atlassi for damages. Noble's sole contention on appeal is that the circuit court was wrong to do so.

Applying the test for application of the doctrine of collateral estoppel set forth in Dorrance v. Lee, 90 Hawai'i 143, 976 P.2d 904 (1999), and in light of the principles set forth in Tradewind Ins. Co. v. Stout, 85 Hawai'i 177, 938 P.2d 1196 (App. 1997), we conclude that the circuit court did not err in granting Atlassi's June 5, 2000 Motion for Partial Summary Judgment as to Liability. Accordingly, we affirm the Final Judgment entered by the circuit court on November 20, 2000.

DATED: Honolulu, Hawai'i, October 29, 2003.

On the briefs:

John Orville Noble,
defendant-appellant *pro se*.

James J. Bickerton and
Alan B. Burdick (Bickerton
Saunders & Dang) for
plaintiff-appellee.

¹ Defendant-Appellant John Orville Noble (Noble) subsequently filed a Hawaii Rules of Penal Procedure (HRPP) Rule 40 petition for post-conviction relief, seeking to set aside the January 8, 1998 Judgment of the Circuit Court of the Second Circuit (the circuit court), convicting and sentencing him, upon a jury trial, of one count of Assault in the Second Degree and three counts of Terroristic Threatening in the First Degree. On January 23, 2003, this court issued a Summary Disposition Order affirming the circuit court's order dismissing Noble's HRPP Rule 40 petition.