

NOT FOR PUBLICATION

NO. 25850

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee, v.
DAVID GOLDSWORTHY, Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 02-1-1019)

HAWAIIAN
COURT REPORTERS
& VIDEO

2005 APR -7 AM 9:50

FILED

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant David Goldsworthy (Goldsworthy) appeals from the Judgment filed on May 21, 2003 in the Circuit Court of the First Circuit (circuit court).^{1/} Goldsworthy was convicted of Assault in the Third Degree in violation of Hawaii Revised Statutes (HRS) § 707-712.1^{2/} (1993).^{3/}

^{1/} The Honorable Karl K. Sakamoto presided.

^{2/} Defendant-Appellant David Goldsworthy (Goldsworthy) was convicted under Hawaii Revised Statutes (HRS) § 707-712. The Judgment states that Goldsworthy was convicted of HRS § "707-712.1"; however, no such statute exists. The circuit court is hereby ordered to file an Amended Judgment to set forth the correct HRS section under which Goldsworthy was convicted.

^{3/} HRS § 707-712 (1993) provides:

§707-712 Assault in the third degree. (1) A person commits the offense of assault in the third degree if the person:

- (a) Intentionally, knowingly, or recklessly causes bodily injury to another person; or
- (b) Negligently causes bodily injury to another person with a dangerous instrument.

(2) Assault in the third degree is a misdemeanor unless committed in a fight or scuffle entered into by mutual consent, in which case it is a petty misdemeanor.

On appeal, Goldsworthy contends that the circuit court abused its discretion by sentencing him to a term of four months of imprisonment.

Upon careful review of the record and the briefs submitted by the parties, we hold that the circuit court, taking into consideration the circumstances of Goldsworthy's case and following the sentencing factors outlined in HRS § 706-606 (1993),^{4/} did not abuse its discretion by sentencing Goldsworthy to four months of imprisonment. State v. Akana, 10 Haw. App. 381, 386, 876 P.2d 1331, 1334 (1994); Barnett v. State, 91 Hawai'i 20, 26, 979 P.2d 1046, 1052 (1999).

Therefore,

^{4/} HRS § 706-606 (1993) states:

§706-606 Factors to be considered in imposing a sentence.
The court, in determining the particular sentence to be imposed, shall consider:

- (1) The nature and circumstances of the offense and the history and characteristics of the defendant;
- (2) The need for the sentence imposed:
 - (a) To reflect the seriousness of the offense, to promote respect for law, and to provide just punishment for the offense;
 - (b) To afford adequate deterrence to criminal conduct;
 - (c) To protect the public from further crimes of the defendant; and
 - (d) To provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;
- (3) The kinds of sentences available; and
- (4) The need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.

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IT IS HEREBY ORDERED that the Judgment filed on May 21, 2003 in the Circuit Court of the First Circuit is affirmed.


DATED: Honolulu, Hawai'i, April 7, 2005.

On the briefs:

Jon N. Ikenaga,
Deputy Public Defender,
for defendant-appellant.


Chief Judge

Kimberly Iopa,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for plaintiff-appellee.


Associate Judge


Associate Judge