

NOT FOR PUBLICATION

NO. 26256

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

STATE OF HAWAI'I, Plaintiff/Appellee/Cross-Appellant, v.
PARISH PADAMADA, Defendant/Appellant/Cross-Appellee

APPEAL FROM THE THIRD CIRCUIT COURT
(CR. NO. 02-1-408)

SUMMARY DISPOSITION ORDER
(By: Burns, C.J., Foley and Fujise, JJ.)

NGIRMAI T. YARRA
CLERK APPELLATE COURTS
STATE OF HAWAII

2005 MAY 13 AM 9:21

FILED

Defendant/Appellant/Cross-Appellee Parish Padamada (Padamada) appeals from the Judgment filed on November 24, 2003 in the Circuit Court of the Third Circuit (circuit court).^{1/} Padamada was convicted after a jury trial for Unauthorized Entry into Motor Vehicle in violation of Hawaii Revised Statutes (HRS) § 708-836.5 (Supp. 2004).^{2/} The circuit court sentenced Padamada to five years of imprisonment, to run consecutively to the sentence he was serving at the time of his sentencing in the instant case.

^{1/} The Honorable Terence T. Yoshioka presided.

^{2/} Hawaii Revised Statutes (HRS) § 708-836.5 (Supp. 2004) provides:

§708-836.5 Unauthorized entry into motor vehicle. (1) A person commits the offense of unauthorized entry into motor vehicle if the person intentionally or knowingly enters or remains unlawfully in a motor vehicle with the intent to commit a crime against a person or against property rights.

(2) Unauthorized entry into motor vehicle is a class C felony.

On appeal, Padamada contends the circuit court erred in denying his (1) motion to continue trial and motion for a mistrial in violation of his rights to due process and compulsory process and right not to testify; (2) motion for a new trial in violation of his rights to due process and compulsory process; and (3) motions for judgment of acquittal because there was insufficient evidence to support the conviction.

Upon careful review of the record and the briefs submitted by the parties, we hold:

(1) The circuit court did not abuse its discretion in denying Padamada's motion to continue trial, motion for mistrial, and motion for new trial (the motions for mistrial and for new trial were brought because the circuit court denied Padamada's motion to continue trial and were based on the same grounds as the motion to continue trial). State v. Crisostomo, 94 Hawai'i 282, 287, 12 P.3d 873, 878 (2000).

(2) In State v. Keawe, 107 Hawai'i 1, 108 P.3d 304 (2005), the Hawai'i Supreme Court held:

The standard to be applied by the trial court in ruling upon a motion for a judgment of acquittal is whether, upon the evidence viewed in the light most favorable to the prosecution and in full recognition of the province of the trier of fact, a reasonable mind might fairly conclude guilt beyond a reasonable doubt. An appellate court employs the same standard of review.

Id. at 4, 108 P.3d at 307 (brackets omitted) (quoting State v. Pone, 78 Hawai'i 262, 265, 892 P.2d 455, 458 (1995)).

Substantial evidence existed to support the conviction, and the

circuit court did not err in denying Padamada's motions for judgment of acquittal. State v. Richie, 88 Hawai'i 19, 33, 960 P.2d 1227, 1241 (1998).

Therefore,

IT IS HEREBY ORDERED that the Judgment filed on November 24, 2003 in the Circuit Court of the Third Circuit is affirmed.

DATED: Honolulu, Hawai'i, May 13, 2005.

On the briefs:

Steven D. Strauss
for defendant/appellant/
cross-appellee.


Chief Judge

Michael J. Udovic,
Deputy Prosecuting Attorney,
County of Hawai'i,
for plaintiff/appellee/
cross-appellant.


Associate Judge


Associate Judge