

NOT FOR PUBLICATION

NO. 26130

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
KYUNG JOONG KWON, Defendant-Appellant

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-Cr. No. 03-1-1133)

SUMMARY DISPOSITION ORDER

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

Kyung Joong Kwon (Defendant) appeals the September 9, 2003 judgment of the Family Court of the First Circuit (family court)¹ that convicted him of two counts of abuse of a family or household member.

After a painstaking review of the record and the briefs submitted by the parties, and giving careful consideration to the arguments advanced and the issues raised by the parties, we resolve Defendant's points of error on appeal as follows:

1. The family court did not err in admitting into evidence Defendant's wife's oral statement to the police as an excited utterance under the Hawaii Rules of Evidence Rule 803(b)(2) (1993) exception to the hearsay rule. State v. Moore, 82 Hawai'i 202, 218, 921 P.2d 122, 138 (1996); State v. Clark, 83 Hawai'i 289, 297, 926 P.2d 194, 202 (1996).

2. The interpreter's translation of Defendant's wife's testimony was not prejudicially inaccurate and did not deny

¹ The Honorable Steven S. Alm presided.

K. HAMAKAHO
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STATE OF HAWAII

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Defendant due process. State v. Casipe, 5 Haw. App. 210, 214-16, 686 P.2d 28, 32-34 (1984).

3. Defendant has not carried his burden of showing that the family court prejudicially erred in giving the jury an instruction on self-induced intoxication. Au-Hoy v. Au-Hoy, 60 Haw. 354, 358, 590 P.2d 80, 83 (1979).

4. Defendant has not carried his burden of showing that the family court committed plain error by failing to give him a full and complete advisory on his right to testify. State v. Ibuos, 75 Haw. 118, 121, 857 P.2d 576, 578 (1993).

5. Defendant has not carried his burden of showing that the family court committed plain error by conducting the colloquy on his right to testify after the defense had rested. Tachibana v. State, 79 Hawai'i 226, 237, 900 P.2d 1293, 1304 (1995).

Therefore,


IT IS HEREBY ORDERED that the September 9, 2003 judgment of the family court is affirmed.

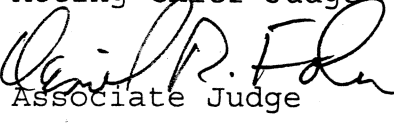
DATED: Honolulu, Hawai'i, November 28, 2005


On the briefs:

Mark S. Kawata
for Defendant-Appellant.

Alexa D.M. Fujise,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.


Acting Chief Judge


Associate Judge


Associate Judge