

NOT FOR PUBLICATION

NO. 26510

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
JOSEPH MISURACA, Defendant-Appellant

NORMA T. YARA  
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STATE OF HAWAI'I

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FILED

APPEAL FROM THE DISTRICT COURT OF THE FIFTH CIRCUIT,  
KOLOA DIVISION  
(CR. NO. KOC04-07)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Joseph Misuraca (Misuraca) appeals from the Judgment filed on May 20, 2004 in the District Court of the Fifth Circuit, Koloa Division (district court).<sup>1/</sup>

On January 5, 2004, Misuraca was charged by complaint with Criminal Property Damage in the Third Degree, in violation of Hawaii Revised Statutes (HRS) § 708-822(1)(b) (Supp. 2005), for intentionally damaging on or about the 25th or 26th day of December, 2003, the property of Chaney Brooks and Company, without its consent, in an amount that exceeded \$500.00.

Misuraca's non-jury trial was held on February 19 and April 1, 2004. The district court found Misuraca guilty as charged. On April 22, 12, 2004, the district court sentenced Misuraca to jail for 90 days and ordered him to pay a \$50.00 fine. The district court stayed the sentence pending appeal.

<sup>1/</sup> Per diem District Court Judge Joseph Kobayashi presided.

On appeal, Misuraca argues: "I was denied several critical witnesses by Judge Joseph Kobayashi; therefore, I did not have a fair trial." Misuraca's opening brief consists entirely of this one sentence. Misuraca did not designate or order any transcripts (including the trial transcript) as part of the record on appeal.

"[A]ppellant bears the burden to show error by reference to matters in the record, and he . . . has the responsibility of providing the relevant transcript." State v. Hoang, 93 Hawai'i 333, 334, 3 P.3d 499, 500 (2000). "We cannot presume error in the absence of the record." Id. at 336, 3 P.3d at 502 (quoting Oriemon v. Territory of Hawaii, 13 Haw. 413, 415 (1901)).

Therefore,

The Judgment filed on May 20, 2004 in the District Court of the Fifth Circuit, Koloa Division, is affirmed.

DATED: Honolulu, Hawai'i, March 23, 2006.

On the briefs:

Joseph Misuraca,  
Defendant-Appellant pro se.

Tracy Murakami,  
Deputy Prosecuting Attorney,  
County of Kaua'i,  
for Plaintiff-Appellee.



Acting Chief Judge



Associate Judge



Associate Judge