

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS OR THE PACIFIC REPORTER

NO. 27574

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
LENIE R. WANG, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(HPD CRIMINAL NO. 05129141)

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STATE OF HAWAII

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SUMMARY DISPOSITION ORDER

(By: Burns, C.J., Lim and Fujise, JJ.)

Defendant-Appellant Lenie R. Wang (Wang) appeals from the October 27, 2005 judgment entered in the District Court of the First Circuit¹ finding her guilty of Prostitution, Hawaii Revised Statutes (HRS) § 712-1200(1) (Supp. 2005), and sentencing her to pay a mandatory \$500 fine and a \$30 Criminal Injuries Compensation Fund assessment.

In relevant part, HRS § 712-1200(1) specifies that "[a] person commits the offense of prostitution if the person . . . agrees . . . to engage in, sexual conduct with another person for a fee."

The sole witness for the State, Honolulu Police Department Officer Jolon Wagner (Officer Wagner) testified that he was "assigned to investigate possible prostitution activity at Club [Tres Jolie]², a strip club at 1646 Kona Street." (Footnote

¹ The Honorable Leslie Hayashi presided.

² Although both briefs indicate that the name of the club was "Club Tres Jolie", the transcript refers to it as "Club Treasure Le (spelled phonetically)."

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added.) On March 30, 2005, at about 10:30 p.m., Officer Wagner entered Club Tres Jolie and a female known to him as Kim took him to a booth seat. Officer Wagner recognized Kim from prior contact he had with her at Club Tres Jolie. Officer Wagner "told Kim that [he] didn't want her tonight and if [she] could get, [he] asked her if she could get [him] someone else." Kim then left and brought Wang over to the booth, who then "sat next to [Officer Wagner] with her left leg touching [Officer Wagner's] right leg."

Kim sat opposite from where Officer Wagner and Wang were sitting in the same booth. Wang told Officer Wagner that "she had to go up and put songs on the juke [sic] box because she was the next to dance on the stage." After Wang got up and left, Officer Wagner then looked over at Kim and said, "is it going to be the same deal for her as it was for you, if I bought mama a drink, then we can go in the back and do everything[?]" Kim responded, "yes, that's right." Officer Wagner then said, "and it's gonna be the same two hundred dollars and hold [sic] up two fingers and [Kim] said yes, that's right. She held up two fingers and said two hundred as well." Wang was not present during this conversation.

Upon her return to the booth occupied by Officer Wagner, Wang thanked Officer Wagner for the drink he had bought for her. Officer Wagner then leaned in towards Wang and said, pointing over towards Kim, that "[Kim] told me if I buy mama a

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drink, then we can go in the back and do a doggie style."

According to Officer Wagner, Wang "then looked at me, nodded and said yes, that's alright." Officer Wagner then said, "it's gonna be two hundred dollars and then [Wang] looked at me and said that's right, again nodding her head." Then Wang's song set came up and she left to dance on the stage. Officer Wagner admitted that he does not know if there is a back room at that club.

After the State rested, defense counsel moved for a judgment of acquittal on the basis that, "even in the light most favorable to the State, they have not made a prima facie case of prostitution There's no agreement of sex for money." The district court denied Wang's motion.

Wang testified that not even five minutes upon her arrival at work, Kim came in the back where Wang was getting ready, and told her that somebody wanted to buy her a drink. Wang followed Kim out and was introduced to Officer Wagner. With Kim present at the booth, Officer Wagner offered to buy Wang a drink, which she accepted. Wang testified that Officer Wagner "offered me money for sex and I smiled at him and I said I'm dancing next, I need to go up and play my music." Thereafter, Wang got up and proceeded to make her song selections because she was running late and "mama" wanted her up on stage. Upon her return to the booth, her drink was there and Officer Wagner asked her again about the proposal. Wang testified that Officer Wagner said, "two hundred dollars, go in the back," and Wang said she

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smiled, looked at him, and said, "I have to go up next, you can come up [and tip me]." Wang explained that her actions were "cause, I basically wanted him to stay cause, so he can tip because that's what we're there for" and "we try to keep our customers to stay, spend money, you know[.]"

Wang filed her appeal on October 27, 2005. This appeal was assigned to this court on June 20, 2006.

At the trial, Wang's defense was that she did not agree to Officer Wagner's offer of two hundred dollars for sex. Wang argues that the evidence is insufficient to support a conviction.

In accordance with Hawai'i Rules of Appellate Procedure Rule 35, and after carefully reviewing the record and the briefs submitted by the parties, and duly considering and applying the law relevant to the issues raised and arguments presented, IT IS HEREBY ORDERED that the October 27, 2005 judgment is affirmed.

DATED: Honolulu, Hawai'i, August 31, 2006.

On the briefs:

Jon N. Ikenaga,
Deputy Public Defender,
for Defendant-Appellant.


Chief Judge

Brian R. Vincent,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.


Associate Judge


Associate Judge