

NO. 27999

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
AGAR K. ENGLISH, Defendant-Appellant

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2007 APR 12 AM 7:55

FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT,
HONOLULU DIVISION
(HPD Cr. No. 06078183)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Agar K. English (English) appeals from the judgment entered by the District Court of the First Circuit¹ (the district court) on May 30, 2006, convicting and sentencing him for prostitution, in violation of Hawaii Revised Statutes § 712-1200(1) (1993).²

English contends that his conviction must be reversed because Plaintiff-Appellee State of Hawaii (the State) failed to disprove that English was a "member of a police department, a sheriff, or a law enforcement officer acting in the course and

¹The Honorable Paula Devens presided.

²Hawaii Revised Statutes § 712-1200 (1993) states, in pertinent part:

Prostitution. (1) A person commits the offense of prostitution if the person engages in, or agrees or offers to engage in, sexual conduct with another person for a fee.

. . . .

(5) This section shall not apply to any member of a police department, a sheriff, or a law enforcement officer acting in the course and scope of duties.

scope of duties[,] a statutory exception to the prostitution offense, and therefore, the State failed to adduce substantial evidence of all the elements of prostitution. This same argument was recently rejected by the Hawai'i Supreme Court in State v. Romano, No. 26110, 2007 WL 588994 (Feb. 27, 2007). Accordingly,

IT IS HEREBY ORDERED that the May 30, 2006 judgment of the district court is affirmed.

DATED: Honolulu, Hawai'i, April 12, 2007.

On the briefs:

Randy M. Oyama and
Harrison L. Kiehm
for defendant-appellant.

Anne K. Clarkin,
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