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NO. CAAP-12-0001077

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee,
v.
LAULANI TEALE, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(Honolulu Division)
(CASE NO. 1P1120005320)

SUMMARY DISPOSITION ORDER

(By: Nakamura, Chief Judge, and Fujise and Leonard, JJ.)

Plaintiff-Appellee State of Hawaii (State) charged Defendant-Appellant Laulani Teale (Teale) with disorderly conduct as a petty misdemeanor, for persisting in disorderly conduct after reasonable warning or request to desist, in violation of Hawaii Revised Statutes (HRS) § 711-1101(1)(a) and (3) (2014).^{1/}

^{1/} HRS § 711-1101 provides, in relevant part:

(1) A person commits the offense of disorderly conduct if, with intent to cause physical inconvenience or alarm by a member or members of the public, or recklessly creating a risk thereof, the person:

(a) Engages in fighting or threatening, or in violent or tumultuous behavior[.]

. . . .

(3) Disorderly conduct is a petty misdemeanor . . . if the defendant persists in disorderly conduct after reasonable warning or request to desist. Otherwise disorderly conduct is a violation.

After a bench trial, the District Court of the First Circuit (District Court)^{2/} found Teale guilty as charged. The District Court sentenced Teale to six months of probation and ordered her to perform seventy-five hours of community service and to pay \$105 in fees and assessments. The District Court entered its Judgment on November 15, 2012.

On appeal, Teale contends that: (1) there was insufficient evidence to support her conviction; (2) the District Court erred in finding the State's witnesses credible; (3) her conduct was protected by the First Amendment; (4) her right to due process was violated; and (5) the District Court erred in not allowing Teale to present video-recorded evidence relating to her state of mind and to assert other defenses. We affirm.

I.

The charge against Teale stemmed from an incident that occurred during the 2012 May Day festivities, an annual event held at the Kapiolani Park Bandstand. Teale had gone to the event to protest what she claimed was the illegal confiscation by government officials of a banner, the painting of which she had facilitated, as well as other property and to discuss the matter with Honolulu Mayor Peter Carlisle, who would be in attendance. Police officers had been assigned to protect the Mayor after receiving information that Teale and members of her group planned approach him at the May Day event.

The State presented the following evidence at trial. Over a thousand people were in the area of the Kapiolani Park Bandstand to watch the May Day program, which included performances by children and adults. Teale and members of her group walked slowly in front of the stage more than once. Their actions interrupted and delayed the progress of the program.

During a speech given by the Mayor, Teale blew a conch shell several times. After his speech, the Mayor went to sit on

^{2/} The Honorable Dean E. Ochiai presided.

a bench in the front row facing the stage. Teale attempted to approach the Mayor multiple times, and on each occasion her approach was blocked by police officers. The officers testified that Teale was carrying a conch shell, which could potentially be used as weapon. This caused the officers some concern as they were unsure of Teale's intentions. The officers repeatedly informed Teale that the May Day event was not the proper time or place to confront the Mayor and urged her to find an alternative time to discuss her issues with the Mayor. Teale, however, argued with the officers and insisted that she be allowed to talk to the Mayor.

Teale's interactions with the officers in the midst of the audience created a disturbance. A person from the audience talked to Teale in an apparent attempt to dissuade Teale from persisting in her actions. Another person from the audience said, "Go away." Teale attempted to evade the officers and take a different path toward the Mayor. When Teale was again intercepted by the police, she sat down and refused the officers' request that she leave the area. Teale's actions "affronted many people," and several people told the officers to remove Teale. Someone from the audience said, "Shame on you." Eventually, the officers lifted Teale from the ground and carried her from the scene. Members of the audience expressed approval of the police's action by clapping and saying, "Get her out of here," "Good," and "Go home. Go home."

A member of Teale's group made video recordings (consisting of three files) of the group's activities that day, which Teale produced to the State in discovery. At trial, the State introduced one of the video recordings (file 3). The video recording admitted in evidence, excerpts of which were played at trial, showed events shortly before and after Teale's arrest, including interactions between Teale and police officers that preceded her arrest.

II.

We resolve the arguments raised by Teale on appeal as follows:

1. Teale argues that there was insufficient evidence to support her conviction because the State failed to prove: (1) that she acted "with intent to cause physical inconvenience or alarm by a member or members of the public, or recklessly creating a risk thereof;" and (2) that she engaged in "fighting or threatening, or in violent or tumultuous behavior[.]" See HRS § 711-1101(1)(a). We disagree.

When viewed in the light most favorable to the State, see State v. Richie, 88 Hawai'i 19, 33, 960 P.2d 1227, 1241 (1998), there was sufficient evidence to support Teale's conviction. The evidence showed that Teale's actions caused a disruption in the midst of the May Day program and interfered with the audience's enjoyment of the program, causing members of the audience to voice their disapproval and tell the police to remove her. We conclude that the State presented sufficient evidence to show that Teale recklessly created a risk that her conduct would cause physical inconvenience or alarm by a member or members of the public.

We also conclude that the State presented sufficient evidence to show that Teale engaged in "tumultuous behavior." The term "tumultuous" is defined to mean (1) "full of tumult or riotousness; marked by disturbance and uproar"; (2) "raising a great clatter and commotion; disorderly or noisy"; (3) "highly agitated, as the mind or emotions; distraught; turbulent." Dictionary.com, <http://www.dictionary.com/browse/tumltuous> (defining "tumultuous") (last accessed June 28, 2016). The term "disorderly," in turn, is defined to mean (1) "characterized by disorder; irregular; untidy; confused"; (2) "unruly; turbulent; tumultuous"; (3) "contrary to public order or morality." Dictionary.com, <http://www.dictionary.com/browse/disorderly> (defining "disorderly") (last accessed June 28, 2016).

The context of Teale's actions was a confrontation with the police in the midst of a well-attended May Day program, near the front of the stage area, which affected the enjoyment of the program by, and interfered with the view of, members of the audience. Viewed in this context, we conclude that the State presented substantial evidence to show that Teale engaged in "tumultuous behavior" within the meaning of HRS § 711-1101(1)(a). Among other things, the State presented evidence that during the program, Teale repeatedly attempted to approach the Mayor despite being told by the police that she could not meet with him at that time; argued with the police and insisted on meeting with the Mayor; attempted to evade the police and continue toward the Mayor; persistently refused to comply with police warnings and requests; and disturbed members of the audience watching the program.

2. In support of her claim that there was insufficient evidence to support her conviction, Teale argues that the District Court erred finding the State's witnesses credible. However, it is well settled that:

Matters related to the credibility of witnesses and the weight to be given to the evidence are generally left to the factfinder. The appellate court will neither reconcile conflicting evidence nor interfere with the decision of the trier of fact based on the witnesses' credibility or the weight of the evidence.

State v. Mitchell, 94 Hawai'i 388, 393, 15 P.3d 314, 319 (App. 2000) (citation omitted). We decline to overturn the District Court's credibility determinations.

3. Teale provides no basis to believe that the actions of the police infringed upon her rights protected by the First Amendment. The actions taken by the police were in response to Teale engaging in disruptive behavior and were not related to or affected by the content of any speech by Teale or her exercise of First Amendment rights.

4. We reject Teale's claim that her due process rights were violated. The State provided Teale with due process by permitting her to defend against her prosecution for disorderly conduct at a trial.

5. Teale argues that the District Court erred in not allowing Teale to present video-recorded evidence relating to her state of mind and to assert other defenses. We conclude that Teale is not entitled to relief on these claims.

In addition to the video recording of events in close proximity to her arrest that was admitted in evidence, Teale sought to introduce video recordings of events that took place earlier that day. Teale argues that these proffered recordings, which the District Court did not allow her to introduce, were relevant to show that she "began the day by meeting with others and telling them to be [respectful],^{3/} and that she did not possess a criminal state of mind[.]" However, the probative value of evidence related to Teale's state of mind earlier that day is questionable and only marginal at best. The relevant question was Teale's state of mind at the time she allegedly committed the offense, not her state of mind earlier that day. In addition, Teale was permitted to present her own testimony as well as the testimony of other witnesses regarding her state of mind, and the proffered video recordings were therefore cumulative of evidence admitted at trial. We conclude that the District Court did not abuse its discretion in not permitting Teale to introduce the proffered video recordings at trial, and, even assuming *arguendo* that the District Court did err, such error was harmless.^{4/}

^{3/} The quoted portion of Teale's brief uses the word "disrespectful," but this appears to be a mistake.

^{4/} We note that the State was not required to prove Teale's actual intent "to cause physical inconvenience or alarm by a member or members of the public," but that it was sufficient for the State to prove that she "recklessly creat[ed] a risk thereof[.]" See HRS § 711-1101(1)(a); State v. Jendrusch, 58 Haw. 279, 281-82, 567 P.2d 1242, 1244 (1977).

Teale argues that the District Court erred in not allowing her to present purported defenses based on international law and Kānāwai Māmalahoe, The Law of the Splintered Paddle.^{5/}

Teale, however, does not explain how or why these cited matters served to provide her with a defense to her disorderly conduct prosecution. She therefore has not demonstrated her entitlement to relief based on these arguments.

III.

Based on the foregoing, we affirm the District Court's Judgment.

DATED: Honolulu, Hawai'i, June 30, 2016.

On the briefs:

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for Defendant-Appellant

Stephen K. Tsushima
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City and County of Honolulu
for Plaintiff-Appellee

Craig H. Nakamura

Chief Judge

Alana R. S. Jiro

Associate Judge

[Signature]
Associate Judge

^{5/} Article IX, Section 10 of the Hawai'i Constitution provides:

The law of the splintered paddle, mamala-hoe kanawai, decreed by Kamehameha I--Let every elderly person, woman and child lie by the roadside in safety--shall be a unique and living symbol of the State's concern for public safety.

The State shall have the power to provide for the safety of the people from crimes against persons and property.