

Electronically Filed
Intermediate Court of Appeals
CAAP-15-0000662
13-DEC-2016
08:13 AM

NO. CAAP-15-0000662

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
TEVIN KEKOA BADON-YUNG, Defendant-Appellant

APPEAL FROM THE FAMILY COURT OF THE THIRD CIRCUIT
(FC-CR NO. 14-1-0198)

SUMMARY DISPOSITION ORDER

(By: Foley, Presiding J., Leonard and Reifurth, JJ.)

Defendant-Appellant Tevin Kekoa Badon-Yung (**Appellant**) appeals from an August 12, 2015 Judgment, Guilty Conviction and Sentence entered in the Family Court of the Third Circuit¹ (**family court**). Appellant was convicted of abuse of family or household member in violation of Hawaii Revised Statutes § 709-906 (2014 Repl.).

Appellant's sole point on appeal is that the family court erred in precluding Appellant from presenting his opinion that the complaining witness (**CW**) was an untruthful person.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, as well as the relevant statutory and case law, we conclude Appellant's appeal is without merit.

The family court did not abuse its discretion in excluding the personal opinion of Appellant that CW was an

¹ The Honorable Lloyd Van De Car presided.

untruthful person as a needless presentation of cumulative evidence under Hawaii Rules of Evidence Rule 403 (1993).

The family court in this bench trial had heard testimony from two defense witnesses that CW had a reputation in the community for being untruthful and that their personal opinions were that CW was untruthful.

In addition, Appellant testified that CW had a reputation in the community for being untruthful. In excluding the testimony of Appellant at this bench trial, the family court stated the obvious. Referring to Appellant and CW, the family court stated: "I would assume that, given the relationship between the two of them in these proceedings, um, each is going to assume that the other is untruthful since they're telling different stories[.]"

In any event, assuming the family court erred in excluding the personal opinion of Appellant, the error was harmless. The family court found CW more credible than Appellant. CW's testimony was consistent with the evidence of CW's injuries. Appellant's testimony that CW's injuries were self-inflicted was found not to be credible.

Therefore,

IT IS HEREBY ORDERED that the August 12, 2015 Judgment, Guilty Conviction and Sentence entered in the Family Court of the Third Circuit is affirmed.

DATED: Honolulu, Hawai'i, December 13, 2016.

On the briefs:

Merlinda F.R. Garma
Deputy Public Defender
for Defendant-Appellant.

Ryan K. Caday
Deputy Prosecuting Attorney
County of Hawai'i
for Plaintiff-Appellee.


Presiding Judge


Associate Judge


Associate Judge