

NO. 24536

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee

vs.

RUDOLPH VASTLIK, JR., Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 00-1-1405)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama,
Ramil, and Acoba, JJ.)

Defendant-Appellate Rudolph Vastlik, Jr. (Defendant) appeals his convictions of Assault in the First Degree, HRS § 707-710 (1993) (Count I) and Assault in the Second Degree, HRS § 707-711(1)(d) (1993) (Count II) from the first circuit court (the court).¹ He first contends that the court's jury instructions on the elements of the crimes were erroneous insofar as they: (1) listed the states of mind as separate elements; (2) incorrectly combined the "conduct" and "result" portions of the crimes as single elements; (3) failed to include as an element the requirement that Plaintiff-Appellee State of Hawai'i (the prosecution) negative Defendant's claim of self-defense, see HRS § 702-205 (1993); and (4) failed to specify that the state of

¹ The Honorable Michael Town presided over this matter.

mind element applied to all elements of the offense. Defendant also maintains that the court erred in denying his motions for judgment of acquittal.

The listing of the state of mind elements as a separate material element and the identification of the "conduct" and "result" prongs of the crime into single elements did not adversely affect Defendant's substantial rights. See State v. Aganon, 97 Hawai'i 299, 303, 36 P.3d 1269, 1273 (2001). The court's failure to include an element negating the defense of self-defense also did not affect his substantial rights. See State v. Horswill, 75 Haw. 152, 160, 857 P.2d 579, 583 (1993). Finally, while, as in Aganon, the instruction in the instant case failed to indicate that the state of mind applied to each element, unlike Aganon, the court did not instruct the jury that "unanimous agreement with respect to one of the three" definitions of "intentionally" and "knowingly" "is sufficient" for conviction. Aganon, 97 Hawai'i at 301, 36 P.3d at 1271 (emphasis added). In Aganon, it was the trial court's "communication" to that effect that made the instructions erroneous, allowing the jury to find that the defendant possessed the requisite state of mind with respect to the defendant's conduct but not the result of his conduct. See id. at 304, 36 P.3d at 1274. Thus, the instructions challenged in this case were not prejudicially erroneous.

Finally, the court did not err in denying Defendant's motions for acquittal insofar as substantial evidence was adduced

in support of each element of the crimes charged. See State v. Jenkins, 93 Hawai'i 87, 99, 997 P.2d 13, 25 (2000) (explaining that a motion for judgment of acquittal is reviewed by considering whether the evidence, when "viewed in the light most favorable to the prosecution . . . is sufficient to support a prima facie case so that a reasonable mind might fairly conclude guilt beyond a reasonable doubt" and defining "sufficient evidence" as "substantial evidence as to every material element of the offense charged." (Citation omitted.)).

Therefore, 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 analyzing the law relevant to the arguments and issues raised by the parties,

IT IS HEREBY ORDERED that the court's judgment of conviction and sentence filed on August 7, 2001, from which the appeal is taken, is affirmed.

DATED: Honolulu, Hawai'i, August 23, 2002.

On the briefs:

Jon N. Ikenaga, Deputy
Public Defender, for
defendant-appellant.

Arleen Y. Watanabe, Deputy
Prosecuting Attorney,
County of Maui, for
plaintiff-appellee.