

NO. 27712

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee,
v.
RICHARD LEEKS, Defendant-Appellant

EM. RIMANDO
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STATE OF HAWAII

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FILED

APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT
WAILUKU DIVISION
(CASE NO. 2P105-00916)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Richard Leeks (Leeks) appeals from the December 15, 2005 judgment¹ finding him guilty of Harassment, Hawaii Revised Statutes § 711-1106(1)(b) (Supp. 2006), and sentencing him to probation for six months subject to sundry special conditions including fourteen days in jail.

The alleged offense occurred on December 16, 2004. On October 3, 2005, after a trial on August 10, 2005, the court entered Findings of Fact and Conclusions of Law.

Viewing the record as a whole and in the totality of the circumstances, we conclude that substantial evidence supports the court's decision that the State proved beyond a reasonable doubt that, viewed objectively: (1) Leeks insulted and/or taunted Brass (i.e., the prohibited conduct); (2) the word Leeks used was so offensive that it was likely to provoke an immediate physical retaliation against Leeks by Brass or someone acting in the

¹ Judge Douglas Ige presided.

interest of Brass (i.e., the probable result of the prohibited conduct); and (3) Leeks did so with intent to harass, annoy, or alarm Brass (i.e., the requisite state of mind). See State v. Taliferro, 77 Hawai'i 196, 881 P.2d 1264 (App. 1994).

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 applying the law relevant to the issues raised and arguments presented,

IT IS HEREBY ORDERED that the December 15, 2005 judgment is affirmed.

DATED: Honolulu, Hawai'i, September 29, 2006.

On the briefs:

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

Benjamin M. Acob,
Deputy Prosecuting Attorney,
County of Maui,
for Plaintiff-Appellee.


Chief Judge


Associate Judge


Associate Judge