

NO. 23099

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee

vs.

KEITH A. DICKERSON, Defendant-Appellant

APPEALS FROM THE FIRST CIRCUIT COURT
(NO. 23099 (CR. NO. 98-2113) and NO. 23100 (CR. NO. 98-420))

SUMMARY DISPOSITION ORDER

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

Defendant-appellant Keith Dickerson appeals from orders denying his motions for reconsideration of his sentences. Dickerson previously pled no contest to the following offenses: one count of robbery in the second degree, in violation of Hawai'i Revised Statutes (HRS) § 708-841(1)(a) (1993); one count of promoting a dangerous drug in the third degree, in violation of HRS § 712-1243 (1993 & Supp. 1999); one count of unlawful use of drug paraphernalia, in violation of HRS 329-43.5(a) (1993); and three counts of theft in the second degree, in violation of HRS § 708-832 (1993). Dickerson was sentenced to ten years' imprisonment for the robbery charge and five years' imprisonment for each of the two drug charges and the three theft charges. Dickerson moved for reconsideration of his sentences, but the circuit court denied his motions. He argues that the circuit court: 1) erred in denying the motions because he was induced to plead no contest by the judge's statements that he intended to sentence Dickerson to two consecutive one-year terms and probation; and 2) assuming that the court properly denied the motion, it should have sua sponte given Dickerson the opportunity to withdraw his pleas.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to

the arguments made and the issues raised by the parties, we resolve defendant-appellant's arguments as follows: 1) the judge's intended sentence was not a "promise" and was subject to the court's review of the presentence report, and, based upon the presentence report, the circuit court did not err in denying Dickerson's motion for reconsideration of his sentences; and 2) because Dickerson's motions stated that he was not seeking to withdraw his pleas and defense counsel did not indicate otherwise during the hearing on the motions, this argument was waived.

THEREFORE, IT IS HEREBY ORDERED that the circuit court's orders denying Dickerson's motions for reconsideration of his sentences are affirmed.

DATED: Honolulu, Hawai'i, January 31, 2001.

On the briefs:

Michael G.M. Ostendorp
for defendant-appellant

Loren J. Thomas, Deputy
Prosecuting Attorney and
Michelle Mitsuyoshi, Law
Clerk on the Brief, for
plaintiff-appellee