

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee,

vs.

PAUL FERREIRA, Defendant-Appellant.

APPEAL FROM THE FIRST CIRCUIT COURT
(FC-CR. NO. 00-1-2809)

SUMMARY DISPOSITION ORDER

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

Defendant-appellant Paul Ferreira appeals from the January 31, 2001 judgment of conviction and sentence of the Family Court of the First Circuit, the Honorable Derrick Chan presiding, adjudging him guilty of abuse of a family or household member, in violation of Hawai'i Revised Statutes (HRS) § 709-906 (Supp. 2000).¹ Ferreira contends that the family court erred in determining that his prior bad acts were: (1) relevant to impeach his statement indicating that he had never hit his wife and (2) more probative than prejudicial.

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to

¹ HRS § 709-906 states in pertinent part, "It shall be unlawful for any person, singly or in concert, to physically abuse a family or household member or to refuse compliance with the lawful order of a police officer under subsection (4)."

the issues raised and the arguments presented,² we hold that:
(1) Ferreira's prior bad acts were relevant to his statement indicating that he had never hit his wife, see Hawai'i Rules of Evidence (HRE) Rule 401 (1993)³; (2) the family court properly balanced the probative value against the prejudicial effect of the evidence, see State v. Clark, 83 Hawai'i 289, 302-03, 926 P.2d 194, 207-08 (1996); and (3) the jury is presumed to have followed the court's instruction that Ferreira's prior bad acts could not be used to determine whether Ferreira committed the crime charged. State v. Klinge, 92 Hawai'i 577, 592, 994 P.2d 509, 524 (2000). Therefore,

IT IS HEREBY ORDERED that the January 31, 2001 judgment of conviction and sentence from which this appeal is taken is affirmed.

DATED: Honolulu, Hawai'i, July 9, 2002.

Craig T. Kinsel,
for defendant-appellant

Mangmang Qiu Brown,
Deputy Prosecuting Attorney,
for plaintiff-appellee

² Oral argument in this case was held on July 3, 2002.

³ HRE Rule 401 states, "'Relevant evidence' means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence."