

NO. 24763

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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STATE OF HAWAI'I, Plaintiff-Appellee

vs.

DAMIEN FALETOGO, also known as  
Delrey Iuli, Defendant-Appellant

and

JOSHUA LAUAMA, also known as  
Junior Lauama, Defendant

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APPEAL FROM THE FIRST CIRCUIT COURT  
(CR. NO. 91-1-0793)

SUMMARY DISPOSITION ORDER

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

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, we have determined that: (1) the circuit court of the first circuit (the court)<sup>1</sup> did not abuse its discretion in denying the motion for a mistrial filed by Defendant-Appellant Damien Faletoogo (Defendant) on the basis of an improper remark made by a witness, because the misconduct of the witness was a single remark, there was a prompt curative instruction, and the evidence

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<sup>1</sup> The Honorable Karl K. Sakamoto presided over this matter.

against Defendant was strong, see State v. Samuel, 74 Haw. 141, 148, 838 P.2d 1374, 1378 (1992); (2) the court did not err in concluding that Defendant's statements made to Officer Chang at the hospital were voluntary, and that there was no interrogation or express questions asked of Defendant which would warrant Miranda warnings, see State v. Uganiza, 68 Haw. 28, 31, 702 P.2d 1352, 1354 (1985); and (3) the court properly weighed the credibility of Officer Chang's testimony that he had not asked Defendant any questions in order to elicit an incriminating response, see State v. Vinuya, 96 Hawai'i 472, 481, 32 P.3d 116, 125 (App. 2001). Therefore,

IT IS HEREBY ORDERED that the judgment of the first circuit court filed on November 14, 2001, from which the appeal is taken, is affirmed.

DATED: Honolulu, Hawai'i, August 27, 2002.

On the briefs:

James S. Tabe, Deputy  
Public Defender, for  
defendant-appellant.

Bryan K. Sano, Deputy  
Prosecuting Attorney,  
City & County of Honolulu,  
for plaintiff-appellee.