

NO. 24691

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee,

vs.

KEOKI DAVIS, Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(CASE NO. 1P300-1030)

SUMMARY DISPOSITION ORDER

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

Following a bench trial,¹ defendant-appellant Keoki Davis appeals from the October 10, 2001 First Circuit Court judgment of conviction and sentence for the offense of harassment, pursuant to Hawai'i Revised Statutes (HRS) § 711-1106(1)(a) (1993). On appeal, Davis argues that the trial court erred in convicting him because there was insufficient evidence that Davis possessed the requisite intent to "harass, annoy or alarm" Aiea Somaoy, the complaining witness in this case.

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

¹ The Honorable Fa'auuga To'oto'o presided over the bench trial.

the arguments advanced² and the issues raised, we conclude that Davis's argument is without merit.

It is well-settled that, on appeal, "the test to ascertain the legal sufficiency of the evidence is whether, viewing the evidence in the light most favorable to the State, there is substantial evidence to support the conclusion of the trier of fact." State v. Hopkins, 60 Haw. 540, 542, 592 P.2d 810, 811 (1979) (citations omitted). We have long held that "it is an elementary principle of law that intent may be proved by circumstantial evidence; that the element of intent can rarely be shown by direct evidence; and it may be shown by a reasonable inference arising from the circumstances surrounding the act." Id. at 544, 592 P.2d at 812-13 (brackets, quotations marks, and citations omitted); State v. Stocker, 90 Hawai'i 85, 92, 976 P.2d 399, 406 (1999).

Substantial evidence was presented at trial through the testimony of Somaoy, the complaining witness, that would have allowed the court to reasonably infer that Davis possessed the requisite intent to "harass, annoy, or alarm" the complaining witness. This evidence includes the following: the parties engaged in a protracted dispute; Davis raised his voice during his argument with Somaoy; Davis cursed at her; Davis continued to choke Somaoy, despite her repeated attempts to free herself;

² This case was argued on September 4, 2002.

Somaoy was scared and upset by Davis's actions and made her alarm apparent. See Stocker, 90 Hawai'i at 92, 976 P.2d at 406

(holding that court could have reasonably inferred existence of requisite intent for offense of harassment where evidence was introduced that the defendant became angry, yelled at victim, and slapped him on the face). The fact that the evidence may also have been sufficient to sustain a charge of assault is irrelevant to the disposition of this case. Accordingly,

IT IS HEREBY ORDERED that the October 10, 2001 judgment of conviction and sentence is affirmed.

DATED: Honolulu, Hawai'i, September 11, 2002.

Bryant Zane, Deputy
Public Defender,
for defendant-appellant

Mark Yuen, Deputy
Prosecuting Attorney,
for plaintiff-appellee