

NO. 24951

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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STATE OF HAWAI'I, Plaintiff-Appellee

vs.

TUIVA FAUALO, also known as Tonny Fatu,  
Defendant-Appellant

and

LORD JARALBA, Defendant

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APPEAL FROM THE FIRST CIRCUIT COURT  
(CR. NO. 01-1-1020)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Tuiova Faualo (Defendant) appeals from the judgment entered on February 12, 2002 by the circuit court of the first circuit<sup>1</sup> (the court), adjudging him guilty of promoting a dangerous drug in the third degree, Hawai'i Revised Statutes (HRS) § 712-1243 (1993 & Supp. 1996) (Count I) and unlawful use of drug paraphernalia, HRS § 329-43.5(a) (1993) (Count II).

In accordance with Hawai'i Rules of Appellate Procedure Rule 35, and after carefully reviewing the record and the briefs submitted by the parties, duly considering and analyzing the law relevant to the arguments and issues raised by the parties, and

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<sup>1</sup> The Honorable Michael A. Town presided over this matter.

having heard oral argument, we hold that there was evidence apart from the hearsay evidence of the statement made by the co-defendant and challenged by Defendant sufficient to establish probable cause to believe Defendant had committed the offenses for which he was charged, see State v. Navas, 81 Hawai'i 113, 116, 913 P.2d 39, 42 (1996) (stating that "[p]robable cause exists when the facts and circumstances within one's knowledge and of which one has reasonably trustworthy information are sufficient in themselves to warrant a person of reasonable caution to believe that an offense has been committed" (citations omitted)), i.e., there was evidence that when the police entered the premises after announcing their presence, Defendant was observed peeking from the restroom and withdrawing into it; the police entered the restroom; the restroom area was small; Defendant, the co-defendant, and a female were in the bathroom; there was a "haze" in the air; a glass pipe with white residue was in a rubbish can; and the residue in the pipe was "still bubbling" and appeared hot. Therefore,

IT IS HEREBY ORDERED that the court's February 12, 2002 judgment is affirmed.

DATED: Honolulu, Hawai'i, December 24, 2002.

Valerie Vargo for  
defendant-appellant.

Mark S.P. Yuen, Deputy  
Prosecuting Attorney, City and  
County of Honolulu, for  
plaintiff-appellee.