

STATE OF HAWAI'I, Plaintiff-Appellee

vs.

PAUL SANDOVAL, Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 91-0666)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, and Acoba, JJ.
and Circuit Judge Sakamoto, assigned by reason of vacancy)

Defendant-appellant Paul Sandoval (Sandoval) appeals from the October 30, 1991 judgment of the circuit court of the first circuit, the Honorable Michael Town presiding, finding Sandoval guilty of Burglary in the First Degree, in violation of Hawai'i Revised Statutes (HRS) § 708-810(1)(c) (1985).¹ On appeal, Sandoval argues that the circuit court erred: (1) in denying his motion for judgment of acquittal because a reasonable jury could not have found that Sandoval possessed the requisite mental capacity to commit the offense pursuant to HRS § 704-400 (1985)²; and (2) in denying the several oral motions for mistrial

¹ HRS § 708-810(1)(c) provides in relevant part:

(1) A person commits the offense of burglary in the first degree if he intentionally enters or remains unlawfully in a building, with intent to commit therein a crime against a person or against property rights, and:

(c)
He recklessly disregards a risk that the building is the dwelling of another, and the building is such a dwelling.

² HRS § 704-400 provides in relevant part:

(1) A person is not responsible, under this Code, for conduct if at the time of the conduct as a result of physical or mental disease, disorder, or defect he lacks substantial capacity either to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law.

(2) As used in this chapter, the terms "physical or mental disease, disorder, or defect" do not include an abnormality manifested only by repeated penal or otherwise anti-social conduct.

based on a violation of Hawai'i Rules of Evidence (HRE) Rule 404(b).³

Sandoval's arguments are without merit, and the circuit court did not abuse its discretion in denying the motions, as: (1) viewing the evidence in the light most favorable to the prosecution, the evidence was such that a reasonable jury might fairly have found that Sandoval failed to meet his burden of proving by a preponderance of the evidence that he lacked cognitive and/or volitional capacity, thereby negating penal responsibility; and (2) the testimony regarding Sandoval's prior acts was (a) not violative of HRE Rule 404(b), inasmuch as it was admitted as evidence of knowledge, and (b) pursuant to HRE Rule 403, the probative value of the testimony was not substantially outweighed by the danger of unfair prejudice. Therefore,

IT IS HEREBY ORDERED that the judgment from which the appeal is taken is affirmed.

DATED: Honolulu, Hawai'i, March 5, 2003.

On the briefs:

Michael G.M. Ostendorp
and Shaw A. Luiz for
defendant-appellant

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

³ HRE Rule 404(b) provides in relevant part:

(b) Other crimes, wrongs, acts. Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show that he acted in conformity therewith. It may, however, be admissible where such evidence is probative of any other fact that is of consequence to the determination of the action, such as proof of motive, opportunity, intent, preparation, plan, knowledge, identity, modus operandi, or absence of mistake or accident.