

*** NOT FOR PUBLICATION ***

NO. 23461

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee

vs.

CARRIE A. HANSON, Defendant-Appellant

and

JOHN J. RODRIGUES, JACQUELINE BISSEN, STEVEN O. HANSON,
Defendants

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 97-0914)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, and Nakayama, JJ.,
Circuit Judge Milks, in place of Acoba, J., unavailable,
and Circuit Judge Ahn, assigned by reason of vacancy)

Defendant-appellant Carrie Ann Hanson appeals from the judgment of the circuit court of the first circuit, the Honorable Wendell K. Huddy presiding, convicting her of and sentencing her for (1) promoting a dangerous drug in the first degree, in violation of Hawai'i Revised Statutes (HRS) § 712-1241(1)(a)(i) (1993),¹ (2) promoting a dangerous drug in the second degree, in

¹ HRS § 712-1241(1)(a)(i) provides:

- (1) A person commits the offense of promoting a dangerous drug in the first degree if the person knowingly:
 - (a) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of:
 - (i) One ounce or more, containing methamphetamine, heroin, morphine, or cocaine or any of their respective salts, isomers, and salts of isomers[.]

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violation of HRS § 712-1242(1)(b)(i) (1993),² (3) unlawful use of drug paraphernalia, in violation of HRS § 329-43.5(a) (1993),³ and (4) restriction on possession, sale, gift or delivery of electric guns, in violation of HRS §§ 134-16(a) (1993)⁴ and 134-17(c) (Supp. 1999).⁵ On appeal, Hanson argues that the circuit court erred when it (1) determined that the police had properly executed the "knock and announce" requirement, (2) admitted items into evidence where proper foundation was not established through

² HRS § 712-1242(1)(b)(i) provides:

- (1) A person commits the offense of promoting a dangerous drug in the second degree if the person knowingly:
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 - (b) Possesses one or more preparations, compounds, mixtures, or substances of an aggregate weight of:
 - (i) One-eighth ounce or more, containing methamphetamine, heroin, morphine, or cocaine or any of their respective salts, isomers, and salts of isomers[.]

³ HRS § 329-43.5(a) provides:

It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this chapter. Any person who violates this section is guilty of a class C felony and upon conviction may be imprisoned pursuant to section 706-660 and, if appropriate as provided in section 706-641, fined pursuant to section 706-640.

⁴ HRS § 134-16(a) provides that "[i]t shall be unlawful for any person, including a licensed manufacturer, licensed importer, or licensed dealer, to possess, offer for sale, hold for sale, sell, give, lend, or deliver any electric gun."

⁵ HRS § 134-17(c) provides in relevant part that "[a]ny person who violates section 134-2, 134-4, 134-10, 134-15, or 134-16(a) shall be guilty of a misdemeanor."

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the officers who made the initial discovery, (3) permitted testimony regarding Hanson's knowledge of Mario and Vernon's drug involvement over an objection based on a lack of foundation and speculation, and (4) denied Hanson's motion for mistrial, or, in the alternative, motion for new trial, because the jury instructions were prejudicially insufficient pursuant to State v. Jenkins, 93 Hawai'i 87, 997 P.2d 13 (2000).

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised, we hold that: (1) the circuit court did not clearly err when it determined that exigent circumstances existed because the information of a possible armed and dangerous parole violator, coupled with a woman's quick retreat into the house after seeing the police, reasonably called for immediate police action, see State v. Lloyd, 61 Haw. 505, 606 P.2d 913 (1980); State v. Davenport, 55 Haw. 90, 516 P.2d 65 (1973); State v. Garcia, 77 Hawai'i 461, 887 P.2d 671 (App. 1997); (2) the circuit court did not abuse its discretion by admitting various exhibits into evidence because the recovering officer took custody of the items, and, thus, his testimony was necessary to establish chain of custody and not that of the discovering officers, see State v. Vance, 61 Haw. 291, 602 P.2d 933 (1979); (3) the circuit court did not abuse its discretion by allowing Rodrigues's testimony because the prosecution laid the proper foundation to establish that

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Rodrigues had personal knowledge of the "matter" that was the subject of his testimony, see Hawai'i Rules of Evidence Rule 602; A. Bowman, Hawai'i Rules of Evidence Manual § 602-2, at 311-312 (2d ed. 1998); and (4) the circuit court did not err in denying the motion for a mistrial because the jury instructions were not prejudicially insufficient, inasmuch as HRS § 712-1241(1)(a)(i) prescribes "knowledge" as the requisite state of mind, and, thus, Jenkins is inapposite to the instant case, see HRS § 712-1241(1)(a)(i); State v. Jenkins, 93 Hawai'i 87, 997 P.2d 13 (2000). Therefore,

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

DATED: Honolulu, Hawai'i, May 13, 2003.

On the briefs:

Glenn D. Choy
for defendant-appellant
Carrie A. Hanson

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State of Hawai'i