

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 23059

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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STATE OF HAWAI'I,  
Plaintiff-Appellee,

v.

GORDON J. KNOWLES,  
Defendant-Appellant.

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APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
(CR. NO. 99-269267)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, and Duffy, JJ., and Circuit Judge Chan, in place of Acoba, J., recused)

The defendant-appellant Gordon J. Knowles appeals from the judgment of the district court of the first circuit, entered on November 23, 1999, the Honorable Colette Garibaldi presiding, convicting him of and sentencing him for the offense of prostitution, in violation of Hawai'i Revised Statutes (HRS) § 712-1200 (1993 & Supp. 1999)<sup>1</sup>. On appeal, Knowles contends (1) that the district court plainly erred in convicting him of the offense of prostitution, because the State of Hawai'i [hereinafter, "the prosecution"] failed formally to charge him with a crime and (2) that the district court abused its discretion in imposing a geographic restriction upon him as a condition of probation, because the restriction denied him access to his occupation.

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<sup>1</sup> On August 27, 2003, an order was entered, temporarily remanding the present matter to the district court for the entry of a written judgment. The district court's written notice of entry of judgment and/or order was filed on September 24, 2003.

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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 by the parties, we affirm the district court's judgment. With respect to Knowles's first point of error, inasmuch as Knowles had sufficient notice and an opportunity to defend himself against the allegation of prostitution, the prosecution's failure formally to charge him with a crime did not affect his substantial rights at trial, and, thus, the district court did not plainly err in convicting him of and sentencing him for the offense. See State v. Kikuchi, 54 Haw. 496, 500-01, 510 P.2d 781, 783 (1973). With respect to Knowles's second point of error, given that the geographic restriction imposed upon Knowles was "narrowly tailored" and "sufficiently definite such that the average person is provided adequate notice of what behavior is prohibited," see State v. Stanford, 79 Hawai'i 150, 153-54, 900 P.2d 157, 160-61 (1995), the district court did not abuse its discretion in imposing a geographic restriction as a condition of probation. See HRS § 706-624(2)(o) (1993). Therefore,

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

DATED: Honolulu, Hawai'i, October 7, 2003.

On the briefs:

Jonathan E. Burge,  
for the defendant-appellant,  
Gordon J. Knowles

James M. Anderson,  
deputy prosecuting attorney (DPA),  
for the plaintiff-appellee  
State of Hawai'i