

SUPREME COURT OF HAWAI'I

State v. Martins, 106 Haw. 136

102 P.3d 1034 (2004) · No. No. 25021 · Decided January 3, 2005

SUMMARY

The Supreme Court of Hawai'i held that a jury instruction defining a “true threat” is required in every terroristic threatening prosecution, including cases based on words, conduct, or a combination of both. The court reversed the Intermediate Court of Appeals in part, vacated Martins's conviction for second-degree terroristic threatening, and remanded for a retrial on that count.

CASE DETAILS

COURT	Supreme Court of Hawai'i
WRITING FOR THE COURT	Levinson, J.; Moon, C.J.; Nakayama, J.; Acoba, J.; Duffy, J.
JURISDICTION	Hawaii
DECIDED	January 3, 2005
DOCKET	No. 25021
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Martins sought review by writ of certiorari of the Hawai'i Intermediate Court of Appeals' affirmance of his convictions and probationary sentences. The Supreme Court granted certiorari to determine whether the trial court plainly erred by failing to instruct the jury on the constitutional 'true threat' requirement in a terroristic-threatening prosecution based on physical conduct.
STANDARD OF REVIEW	Appeals from the ICA are governed by HRS § 602-59(b), requiring grave errors of law or fact, or obvious inconsistencies warranting further appeal. Because Martins did not object to the jury instruction, the instructional error was reviewed for plain error affecting the fairness, integrity, or public reputation of the judicial proceedings and fundamental rights.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Mark Alan Martins v. State of Hawai'i

TOPICS

jury instructions

first amendment

criminal procedure

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether a jury instruction defining a constitutionally sufficient 'true threat' is required in every terroristic-threatening prosecution, including prosecutions based on physical conduct or a combination of words and conduct.
2. Whether the circuit court's failure to give a true-threat instruction constituted plain error requiring reversal of the terroristic-threatening conviction.

HOLDINGS

1. The requirement of a jury instruction defining a 'true threat' applies in all terroristic-threatening prosecutions, regardless of whether the alleged threat is proved by verbal expression, motor behavior, or a combination of verbal expression and conduct.
2. The circuit court plainly erred by failing to instruct the jury on the true-threat requirement, and the error required vacatur of Martins's second-degree terroristic-threatening conviction and a retrial on that count.

KEY QUOTATIONS

“Thus, in accordance with the Valdivia and Chung analyses, we hold that the requirement of a “true threat” jury instruction is not limited to terroristic threatening prosecutions that are based solely upon verbal conduct, but rather applies in all such prosecutions, whether the threat is proved by evidence of verbal expression, motor behavior, or a combination thereof.” (102 P.3d at 1042)

“For the foregoing reasons, we hold that the requirement of a “true threat” jury instruction applies in all terroristic threatening prosecutions.” (102 P.3d at 1043)

FACTUAL BACKGROUND

Martins confronted dirt bikers near a location where he was target shooting and repeatedly yelled at them to leave what he claimed was his land. After the dirt bikers moved toward their truck, Martins fired six to eight shotgun rounds, causing them to fear that they might be shot. Police later stopped Martins and, pursuant to a warrant, recovered a shotgun, ammunition, spent casings, marijuana, and components of a zip gun from his vehicle.

PROCEDURAL HISTORY

Martins was indicted in 2000 on charges including first-degree terroristic threatening, first-degree reckless endangering, firearms offenses, and promoting a detrimental drug. A jury convicted him of included offenses of second-degree terroristic threatening and second-degree reckless endangering and convicted him as charged on several firearms and drug counts; the circuit court imposed concurrent probationary terms and ninety days of jail

confinement. The ICA affirmed. The Supreme Court granted certiorari, reversed the ICA in part, vacated the terroristic-threatening conviction, and remanded for a retrial on that count.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Reverse the ICA's opinion as to section III.B, vacate the circuit court's March 1, 2002 judgment of conviction for second-degree terroristic threatening, and remand to the circuit court for retrial on that count.

CASES CITED

- State v. Valdivia, 95 Hawai'i 465, 24 P.3d 661 (2001)
- State v. Chung, 75 Haw. 398, 862 P.2d 1063 (1993)
- United States v. Kelner, 534 F.2d 1020 (2d Cir. 1976), cert. denied, 429 U.S. 1022 (1976)
- State v. Sawyer, 88 Hawai'i 325, 966 P.2d 637 (1998)
- In re Jane Doe, Born on June 20, 1995, 95 Hawai'i 183, 20 P.3d 616 (2001)
- State v. Martins, 106 Hawai'i 62, 101 P.3d 671 (Haw. App. 2004)
- State v. Corpuz, 10 Haw. App. 584, 880 P.2d 213 (1994)