

SUPREME COURT OF HAWAII

State of Hawai'i v. Casey Duncan

101 Hawai'i 269, 67 P.3d 768 (2003) · No. No. 22491 · Decided April 28, 2003

SUMMARY

The Supreme Court of Hawai'i reviewed Casey Duncan's conviction for first-degree theft arising from his participation in melting stolen jewelry. The court held that the prosecution improperly introduced extrinsic evidence of Duncan's prior inconsistent statements without laying the foundation required by Hawai'i Rules of Evidence Rule 613. Because the error could have affected Duncan's credibility and defenses, the court vacated the conviction and sentence and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of Hawaii
WRITING FOR THE COURT	Moon, C.J.; Levinson, J.; Nakayama, J.; Acoba, J.; Chang, Circuit Judge, assigned by reason of vacancy
JURISDICTION	Hawaii
DECIDED	April 28, 2003
DOCKET	No. 22491
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Following a jury trial, Duncan was convicted of first-degree theft. The Supreme Court of Hawaii reviewed his direct appeal challenging evidentiary rulings, denial of counsel substitution, jury instructions, sentencing, and sufficiency of the evidence.
STANDARD OF REVIEW	Evidentiary rulings under HRE Rule 403 and admission of rebuttal testimony are reviewed for abuse of discretion; relevance rulings under HRE Rule 402 and admission of bias or motive evidence under HRE Rules 609.1 and 613(b) are reviewed under the right/wrong standard. Sufficiency of the evidence is reviewed under whether substantial evidence supports the trier of fact's conclusion, viewing the evidence in the strongest light for the prosecution. Preserved constitutional or evidentiary error is assessed for whether there is a reasonable possibility that the error contributed to the conviction.
PRECEDENTIAL VALUE	Published precedential opinion of the Supreme Court of Hawaii
PARTIES	Casey Duncan v. State of Hawai'i

TOPICS

criminal procedure

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harmless error

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether the trial court properly excluded testimony about Tempkins's prior bad acts as irrelevant to Duncan's duress defense.
2. Whether the trial court abused its discretion by admitting the employer's rebuttal testimony attacking Duncan's credibility.
3. Whether the prosecution could introduce Duncan's prior inconsistent statements through Detective Staszyn without first satisfying HRE Rule 613(b)'s foundation requirement.
4. Whether the erroneous admission of Detective Staszyn's testimony was harmless.
5. Whether substantial evidence supported Duncan's conviction for first-degree theft.

HOLDINGS

1. Evidence of Tempkins's prior bad acts, known to Rogers but not shown to have been known by Duncan, was not relevant to Duncan's claim that he was coerced into melting the stolen gold and was therefore inadmissible under HRE Rule 402.
2. When extrinsic evidence of a witness's prior inconsistent statement is offered specifically to impeach the witness, the prosecution must comply with HRE Rule 613(b)'s foundation requirements even if the statement also qualifies as a party-opponent admission under HRE Rule 803(a)(1).
3. The erroneous admission of Detective Staszyn's testimony was not harmless because there was a reasonable possibility that it contributed to Duncan's conviction.
4. Substantial evidence supported Duncan's conviction for first-degree theft, including evidence that he intentionally exerted control over and deprived the jewelry store of property worth more than \$20,000.
5. The trial court did not abuse its discretion by admitting McCoy's rebuttal testimony because it was offered solely to attack Duncan's credibility after Duncan testified and did not merely supply evidence that should have been presented in the prosecution's case-in-chief.

KEY QUOTATIONS

“Staszyn's testimony constituted extrinsic evidence of Duncan's prior inconsistent statement that was offered specifically to impeach Duncan. Accordingly, compliance with HRE Rule 613 was necessary.” (at 777)

“Duncan's credibility was the linchpin of his defenses of duress and choice of evils.” (at 777)

“Thus, sufficient evidence was presented at trial to support the finding that Duncan committed theft in the first degree.” (at 778)

FACTUAL BACKGROUND

Jewelry was stolen from the HF Wichman jewelry store, with retail value exceeding \$1.4 million and wholesale value exceeding \$553,000. Norman Kauai testified that Duncan agreed to melt gold for payment and continued melting jewelry after discovering that it was stolen; Duncan testified that he participated because he feared an armed participant, Scott Tempkins. During rebuttal, the prosecution presented Duncan's employer and a detective to challenge Duncan's credibility, including through testimony about statements Duncan allegedly made after his arrest.

PROCEDURAL HISTORY

A jury convicted Duncan of first-degree theft, and the trial court imposed a ten-year term of imprisonment. Duncan timely appealed. The Supreme Court held that the trial court improperly admitted extrinsic evidence of Duncan's prior inconsistent statements without the foundation required by Hawai'i Rules of Evidence Rule 613(b), found a reasonable possibility that the error contributed to the conviction, vacated the conviction and sentence, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The conviction and sentence for first-degree theft are vacated, and the case is remanded for further proceedings consistent with the opinion.

CASES CITED

- State v. Staley, 91 Hawai'i 275, 281, 982 P.2d 904, 910 (1999)
- Walsh v. Chan, 80 Hawai'i 212, 215, 908 P.2d 1198, 1201 (1995)
- State v. Pacheco, 96 Hawai'i 83, 94, 26 P.3d 572, 583 (2001)
- State v. White, 92 Hawai'i 192, 204, 990 P.2d 90, 102 (1999)
- State v. Ortiz, 91 Hawai'i 181, 189, 981 P.2d 1127, 1135 (1999)
- State v. Kauhi, 86 Hawai'i 195, 197, 948 P.2d 1036, 1038 (1997)
- State v. Balisbisana, 83 Hawai'i 109, 114, 924 P.2d 1215, 1220 (1996)
- Takayama v. Kaiser Foundation Hosp., 82 Hawai'i 486, 495, 923 P.2d 903, 912 (1996)
- Yorita v. Okumoto, 3 Haw. App. 148, 156, 643 P.2d 820, 826 (1982)
- Nelson v. University of Hawai'i, 97 Hawai'i 376, 384-85, 38 P.3d 95, 103-04 (2001)
- State v. Bockorny, 124 Or. App. 585, 863 P.2d 1296 (1993)
- State v. Taniguchi, 72 Haw. 235, 240, 815 P.2d 24, 26 (1991)
- State v. Rodrigues, 68 Haw. 124, 134, 706 P.2d 1293, 1300 (1985)
- State v. Matias, 57 Haw. 96, 101-02, 550 P.2d 900, 904 (1976)
- State v. Eastman, 81 Hawai'i 131, 137, 913 P.2d 57, 63 (1996)

- State v. Pokini, 57 Haw. 26, 29, 548 P.2d 1402, 1405 (1976)
- Duncan v. State, 166 Ind. App. 302, 335 N.E.2d 827 (1975)
- State v. Heard, 64 Haw. 193, 194, 638 P.2d 307, 308 (1981) (per curiam)
- State v. Mattiello, 90 Hawai'i 255, 259, 978 P.2d 693, 697 (1999)
- State v. Cabrera, 90 Hawai'i 359, 367, 978 P.2d 797, 805 (1999)

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