

INTERMEDIATE COURT OF APPEALS OF THE STATE OF HAWAI‘I

State of Hawai‘i v. Hailey Dandurand

Dandurand · No. CAAP-XX-XXXXXXX · Decided March 25, 2026

SUMMARY

The Hawai‘i Intermediate Court of Appeals issued a nonprecedential Summary Disposition Order affirming Hailey Dandurand’s convictions and sentences arising from a jury trial. The court rejected or declined to decide her claims concerning ineffective assistance of counsel, prosecutorial misconduct, witness competency, consecutive sentencing, admission of a statement made during a field show-up, discovery sanctions, and denial of a continuance.

CASE DETAILS

COURT	Intermediate Court of Appeals of the State of Hawai‘i
WRITING FOR THE COURT	Keith K. Hiraoka, Presiding Judge; Clyde J. Wadsworth, Associate Judge; Sonja M.P. McCullen, Associate Judge
JURISDICTION	Intermediate Court of Appeals of the State of Hawai‘i
DECIDED	March 25, 2026
DOCKET	CAAP-XX-XXXXXXX
DISPOSITION	affirmed
PROCEDURAL POSTURE	Hailey Dandurand appealed her criminal convictions, sentences, restitution order, extended-term sentencing order, consecutive-term sentencing order, and related commitment order after a jury trial in the Circuit Court of the First Circuit.
STANDARD OF REVIEW	Ineffective-assistance claims were reviewed under the range-of-competence and potential-impairment standard. Witness competency was reviewed under the right/wrong standard. The voluntariness and suppression ruling was reviewed de novo. HRPP Rule 16 sanctions and denial of a continuance were reviewed for abuse of discretion. Prosecutorial misconduct was reviewed by determining whether the conduct was improper and, if so, whether it was harmless beyond a reasonable doubt.
PRECEDENTIAL VALUE	Unpublished summary disposition order; not for publication in West’s Hawai‘i Reports or the Pacific Reporter.
PARTIES	Hailey Dandurand v. State of Hawai‘i, Stephen Brown

TOPICS

criminal procedure

ineffective assistance

sentencing

miranda rights

suppression of evidence

PRACTICE AREAS

criminal procedure

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ineffective assistance of counsel

QUESTIONS PRESENTED

1. Whether trial counsel rendered ineffective assistance by failing to obtain defense witnesses or sentencing experts, obtain or use transcripts from Brown's trial, timely file a motion for new trial, or present legally cognizable grounds to exclude Dandurand's field-show-up statement.
2. Whether the prosecutor committed misconduct by arguing that Dandurand's conduct was inconsistent with the behavior of an abuse victim.
3. Whether the circuit court correctly found a minor witness competent to testify.
4. Whether Dandurand was entitled to have a jury determine facts supporting consecutive sentences.
5. Whether Dandurand's unsolicited field-show-up statement was the product of an un-Mirandized custodial interrogation.
6. Whether the circuit court abused its discretion by excluding defense expert witnesses as a sanction for HRPP Rule 16 discovery violations.
7. Whether the circuit court abused its discretion by denying a continuance of the extended-term sentencing hearing.

HOLDINGS

1. A defendant asserting ineffective assistance based on counsel's failure to obtain witnesses must support the claim with affidavits or sworn statements describing the proposed testimony. Because Dandurand provided no such statements, she failed on the potential-impairment prong, although the claims were preserved without prejudice for a later HRPP Rule 40 petition.
2. Dandurand did not establish ineffective assistance from counsel's alleged failure to obtain Brown's trial transcripts or cross-examine two witnesses because the record did not show that counsel lacked access to the relevant information or that the challenged decisions were not strategic.
3. Although counsel's failure to timely file Dandurand's motion for new trial was an error reflecting a lack of skill, judgment, or diligence, it did not constitute ineffective assistance because none of the motion's asserted grounds supported a potentially meritorious defense or a new trial.
4. Dandurand failed to establish ineffective assistance because counsel actually raised the Miranda, voluntariness, Rule 403, and hearsay arguments she claimed should have been made, and counsel's evidentiary choices were strategic.
5. The prosecutor's argument that a Facebook video contradicted Dandurand's claim of abuse was not improper prosecutorial misconduct because it was a reasonable inference from admitted evidence, not unsupported expert testimony or a personal assertion about psychological trauma.

6. The circuit court did not err in finding M.E. competent to testify because she could communicate, understood the difference between truth and lies, agreed to take an oath, promised to tell the truth, and understood that lying could result in trouble.
7. A defendant is not entitled to have a jury find the facts supporting consecutive sentences under HRS § 706-668.5 when no individual sentence exceeds the applicable statutory maximum; judicial fact-finding for consecutive sentencing remains permissible.
8. The field-show-up statement was admissible because, although Dandurand was in custody, the officer's instruction to stand, look straight ahead, and not move was not interrogation; the statement was unsolicited, spontaneous, and voluntary.
9. The circuit court did not abuse its discretion by excluding defense experts as a discovery sanction because the defense failed to disclose expert identities and reports despite repeated requests and court orders, acted in apparent bad faith, and substantially prejudiced the prosecution after jury selection began.
10. The circuit court did not abuse its discretion by denying a continuance sought to obtain a sentencing mitigation specialist because Dandurand did not exercise due diligence and did not provide sworn evidence showing that the proposed witness would offer relevant and material testimony beneficial to her.

KEY QUOTATIONS

“Even when police do not have probable cause to arrest, a person is in custody for Miranda purposes if the totality of circumstances — including “the place and time of the interrogation, the length of the interrogation, the nature of the questions asked, the conduct of the police, and all other relevant circumstances” — objectively show the person “was in custody or otherwise deprived of their freedom of action” in a significant way.” (at 13)

“When determining the appropriate sanction to impose under HRPP Rule 16 for a defendant's discovery violation, the trial court must consider: “(1) whether the defendant was acting maliciously or in bad faith; (2) the extent of prejudice to the prosecution caused by the violation; (3) whether the prejudice could have been cured by measures less severe than excluding evidence; and (4) any other relevant circumstances.”” (at 15)

FACTUAL BACKGROUND

Dandurand was tried with or in relation to Stephen Brown for offenses arising from the killing and restraint of Telma Boinville and related conduct. The evidence included fingerprints, Boinville's blood or DNA on weapons and on Dandurand, testimony that Dandurand participated in tying and covering victims, possession of Boinville's property, and Dandurand's unsolicited statement during a field show-up that police should shoot her. Dandurand asserted duress and abuse-related defenses, but her counsel failed to timely disclose proposed expert witnesses and did not submit affidavits describing the testimony of witnesses allegedly not obtained.

PROCEDURAL HISTORY

Following a jury trial, Dandurand was convicted of second-degree murder, kidnapping, first-degree burglary, unauthorized entry into a motor vehicle in the second degree, and unauthorized possession of confidential

personal information; one kidnapping count merged. The circuit court imposed life and other terms, including extended and consecutive sentences, and entered the challenged orders. The Intermediate Court of Appeals affirmed, without prejudice to a later HRPP Rule 40 petition concerning specified ineffective-assistance claims.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

No remand. The judgment, mittimus and warrant of commitment, extended-term sentencing order, restitution order, and order granting in part consecutive-term sentencing were affirmed. The ineffective-assistance claims concerning failure to obtain defense and sentencing witnesses were affirmed without prejudice to a subsequent HRPP Rule 40 petition.

CASES CITED

- State v. Yuen, 154 Hawai‘i 434, 443-44, 555 P.3d 121, 130-31 (2024)
- State v. Wakisaka, 102 Hawai‘i 504, 513-14, 78 P.3d 317, 326-27 (2003)
- State v. Richie, 88 Hawai‘i 19, 39, 960 P.2d 1227, 1247 (1998)
- State v. Fukusaku, 85 Hawai‘i 462, 481, 946 P.2d 32, 51 (1997)
- State v. Silva, 75 Haw. 419, 439, 441, 864 P.2d 583, 592, 593 (1993)
- State v. Gomes, 117 Hawai‘i 218, 227, 177 P.3d 928, 937 (2008)
- State v. Bui, 104 Hawai‘i 462, 467, 92 P.3d 471, 476 (2004)
- State v. Brantley, 84 Hawai‘i 112, 121-22, 929 P.2d 1362, 1371-72 (App. 1996)
- State v. Antone, 62 Haw. 346, 352, 615 P.2d 101, 106 (1980)
- State v. Kelekolio, 74 Haw. 479, 524, 527 n.23, 528, 849 P.2d 58, 78, 80 n.23, 80 (1993)
- State v. Willis, 156 Hawai‘i 195, 204, 207, 572 P.3d 668, 677, 680 (2025)
- State v. Udo, 145 Hawai‘i 519, 534-36, 454 P.3d 460, 475-77 (2019)
- State v. Hirata, 152 Hawai‘i 27, 33, 520 P.3d 225, 231 (2022)
- State v. Browder, 154 Hawai‘i 237, 242, 244-45, 549 P.3d 322, 327, 329-30 (2024)
- State v. Marsh, 68 Haw. 659, 660, 728 P.2d 1301, 1302 (1986)
- State v. Basham, 132 Hawai‘i 97, 113, 319 P.3d 1105, 1121 (2014)
- Menendez v. Terhune, 422 F.3d 1012, 1034, 1037 (9th Cir. 2005)
- State v. Damo, No. 29644, 2010 WL 3390064, at *1 (Haw. App. Aug. 30, 2010) (SDO)
- Alleyne v. United States, 570 U.S. 99, 103 (2013)
- State v. Auld, 136 Hawai‘i 244, 254, 361 P.3d 471, 481 (2015)
- State v. Kahapea, 111 Hawai‘i 267, 278-80, 141 P.3d 440, 451-53 (2006)
- Apprendi v. New Jersey, 530 U.S. 466, 490 (2000)
- Oregon v. Ice, 555 U.S. 160, 163-64 (2009)

- State v. Thompson, No. CAAP-XX-XXXXXXX, 2018 WL 4611273, at *4 (Haw. App. Sept. 26, 2018) (mem. op.), vacated on other grounds, No. SCWC-XX-XXXXXXX, 2020 WL 2846618 (Haw. June 1, 2020) (SDO)
- State v. Jackson, No. 29842, 2010 WL 1679575, at *2 (Haw. App. Apr. 21, 2010) (mem. op.)
- State v. Naititi, 104 Hawai‘i 224, 234, 87 P.3d 893, 903 (2004)
- State v. Hewitt, 153 Hawai‘i 33, 40, 44-45, 526 P.3d 558, 565, 569-70 (2023)
- State v. Weldon, 144 Hawai‘i 522, 530, 445 P.3d 103, 111 (2019)
- State v. Ketchum, 97 Hawai‘i 107, 126, 34 P.3d 1006, 1025 (2001)
- State v. Patterson, 59 Haw. 357, 361, 581 P.2d 752, 755 (1978)
- State v. Hoffman, 155 Hawai‘i 166, 169, 557 P.3d 895, 898 (2024)
- State v. Skapinok, 151 Hawai‘i 170, 173, 510 P.3d 599, 602 (2022)
- State v. Trinique, 140 Hawai‘i 269, 277, 400 P.3d 470, 478 (2017)
- State v. Inman, 121 Hawai‘i 195, 199, 216 P.3d 121, 125 (2009)
- State v. Ahlo, 79 Hawai‘i 385, 398, 400, 903 P.2d 690, 703, 705 (App. 1995)
- Barcai v. Betwee, 98 Hawai‘i 470, 481, 50 P.3d 946, 957 (2002)
- Lee v. Elbaum, 77 Hawai‘i 446, 454, 887 P.2d 656, 664 (App. 1993)
- State v. Lee, 9 Haw. App. 600, 603, 856 P.2d 1279, 1281 (1993)
- State v. Gager, 45 Haw. 478, 488, 370 P.2d 739, 745 (1962)
- State v. Williander, 142 Hawai‘i 155, 163-64, 415 P.3d 897, 905-06 (2018)

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