

NO. 22924

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee

vs.

SUN OK C. LAWRENCE, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(CASE NO. 1P199-08866)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, Ramil, and Acoba, JJ.)

Defendant-appellant Sun Ok Lawrence appeals her conviction of assault against a police officer, in violation of Hawai'i Revised Statutes (HRS) § 707-712.5(1)(a) (1993) and her sentence of thirty days' imprisonment. On appeal, Lawrence argues that: 1) there was insufficient evidence to support her conviction; 2) the trial court should have dismissed the charge as de minimis; 3) the trial court erred by denying her motion for a new trial based on newly discovered evidence; and 4) the sentencing provision of HRS § 707-712.5 (1993) is unconstitutional because it violates her right against cruel and unusual punishment and her due process right.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments made and the issues raised by the parties, we resolve defendant-appellant's arguments as follows: 1) there was sufficient evidence adduced at trial to support her conviction; 2) the trial court did not commit plain error in failing to sua

sponte dismiss the charge as a de minimis offense; see generally HRS § 702-236 (1993); 3) the trial court properly denied Lawrence's motion for a new trial because she did not meet her burden of establishing that she was entitled to a new trial based on newly discovered evidence; see State v. Mabuti, 72 Haw. 106, 112-13, 807 P.2d 1264, 1268 (1991); 4) the thirty-day mandatory minimum sentence required by HRS § 707-712.5(2) (1993) does not constitute cruel and unusual punishment and does not violate due process, either on its face or as applied to Lawrence's case; see State v. Jenkins, 93 Hawai'i 87, 114, 997 P.2d 13, 40 (2000) (cruel and unusual punishment); State v. Bernades, 71 Haw. 485, 488, 795 P.2d 842, 844 (1990) (due process and individualized sentencing).

THEREFORE, IT IS HEREBY ORDERED that the district court's judgment of conviction and sentence is affirmed.

DATED: Honolulu, Hawai'i, April 11, 2001.

On the briefs:

Anson O. Rego
for defendant-appellant

James M. Anderson,
Deputy Prosecuting Attorney,
for plaintiff-appellee