

NO. 23277

IN THE SUPREME COURT OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee

vs.

DARRELL G. MARTIN, Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 99-1717)

SUMMARY DISPOSITION ORDER

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

Defendant-appellant Darrell G. Martin appeals from the first circuit court's conviction of and sentence for promoting a dangerous drug in the third degree, in violation of Hawaii Revised Statutes (HRS) § 712-1243 (1993 & Supp. 1996). On appeal, Martin avers that the trial court erred by denying his (1) motions to suppress items of evidence and statements, and (2) motion to dismiss pursuant to HRS § 702-236 (1993).¹

Upon careful review of the record and briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we hold that the court correctly: (1) denied Martin's motions to suppress items of evidence and statements because (a) not only was the drug seizure based on a proper investigative stop, see

¹ The Honorable Michael A. Town presided over the motions to suppress items of evidence and statements, while the Honorable John C. Bryant, Jr. presided over the motion to dismiss.

State v. Trainor, 83 Hawai'i 250, 258, 925 P.2d 818, 826 (1996), but also Martin had abandoned the drugs, see State v. Mahone, 67 Haw. 644, 648, 701 P.2d 171, 175 (1985), and (b) the two statements were not fruits of custodial interrogation, see State v. Ah Loo, 94 Hawai'i 207, 210-11, 10 P.3d 728, 731 (2000); State v. Kauhi, 86 Hawai'i 195, 204-05, 948 P.2d 1036, 1045-46 (1997); and (2) denied his motion to dismiss because substantial evidence was adduced that 7 milligrams of crystal methamphetamine were not so "infinitesimal" as to be unable to produce a pharmacological action or physiological effect, and, thus, the trial court did not abuse its discretion in ruling that the amount of methamphetamine was not de minimis for purposes of HRS § 702-236, State v. Viernes, 92 Hawai'i 130, 134, 988 P.2d 195, 199 (1999). Therefore, the circuit court's judgment and sentence were proper. Accordingly,

IT IS HEREBY ORDERED that the judgment of conviction and sentence of the circuit court from which the appeal is taken are affirmed.

DATED: Honolulu, Hawai'i, June 5, 2001.

On the briefs:

Michael G.M. Ostendorp
& Shawn A. Luiz, of
the Law Office of
Michael G.M. Ostendorp,
for defendant-appellant

Loren J. Thomas, Deputy
Prosecuting Attorney,
for plaintiff-appellee