

## Case Brief

Crim Law, Homicide, Voluntary manslaughter

Hughes, 2/21/15

### Identity of Case

State v. Dumlao, 715 P.2d 822 (Haw.App. 1986).

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### Summary of Facts/Procedural History

Defendant has paranoid personality disorder and often believed his wife was having incestuous relationships with her brothers. At one particular family gathering, after he beat her and put her to bed, defendant testified that he walked back into the living room and his brother in law threatened him with a knife. Defendant fired his gun (which he had on his person for some reason) "to scare his brother in law/defend himself" when he "accidentally" shot his mother in law. Convicted of murder 2<sup>nd</sup>.

Appeals because he wanted (and was not given) an extreme emotional disturbance (provocation) jury instruction. Reversed and remanded.

### Statement of the Issue

Does some evidence of emotional disturbance grant the defendant the EED jury instruction?

### Holding

Yes, given that Hawaii has adopted the MPC EED statute, which is subjective, any evidence at all of emotional disturbance entitles the defendant to an instruction (although the judges don't seem to think it will help him in this case).

### Reasoning

It is a subjective test: from the viewpoint of the internal position in which the defendant found himself, under the circumstances as he perceived them.

There was some evidence that the defendant found himself in a threatening and disturbing position.

It is only a mitigating defense and not a complete defense, so it doesn't harm the legitimate interests of the state in including it.

There were plenty of other witnesses/lots of evidence for the jury to make an informed decision.

### Evaluation