

NO. 22843

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I,)	CASE NO. TR 43 OF 06/07/99
)	
Plaintiff-Appellee,)	
)	DISTRICT COURT OF THE
vs.)	FIRST CIRCUIT
)	
MIKE ANTUNEZ LOPEZ,)	
)	
Defendant-Appellant.)	
_____)	

SUMMARY DISPOSITION ORDER

Upon carefully reviewing the record and the 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 district court abused its discretion when it allowed the prosecution to reopen its case-in-chief to enable the prosecution to overcome Lopez's motion for judgment of acquittal under Hawai'i Rules of Penal Procedure (HRPP) Rule 29 by adducing further evidence of facts establishing defendant-appellant Mike Antunez Lopez's identification beyond a reasonable doubt. See State v. Kwak, 80 Hawai'i 297, 909 P.2d 1112 (1995). Because the error contributed to Lopez's conviction for driving after license suspended or revoked for driving under the influence of intoxicating liquor in violation of Hawai'i Revised Statutes

(HRS) § 291-4.5 (1993), it was not harmless beyond a reasonable doubt. See HRPP 52(a) (1999). Therefore,

IT IS HEREBY ORDERED that the judgment from which the appeal is taken is reversed.

DATED: Honolulu, Hawai'i, June 14, 2000.

On the briefs:

Hayden Aluli
for defendant-appellant

RONALD T.Y. MOON, Chief Justice

Bryan K. Sano, Deputy
Prosecuting Attorney,
for plaintiff-appellee

STEVEN H. LEVINSON, Associate Justice

PAULA A. NAKAYAMA, Associate Justice

MARIO R. RAMIL, Associate Justice

SIMEON R. ACOBA, JR., Associate Justice