

NO. 24135

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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STATE OF HAWAI'I, Plaintiff-Appellee,

vs.

WAYNE KAZUO UEJO, Defendant-Appellant.

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APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
(TRAFFIC NO. 00-0177495)

SUMMARY DISPOSITION ORDER

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

The defendant-appellant Wayne Kazuo Uejo appeals from the judgment and sentence of the district court of the first circuit, the Honorable Gerald H. Kibe presiding, entered on February 1, 2001. Specifically, Uejo argues that the district court erred in denying his motion to suppress the results of a blood sample drawn at the request of the police, on the bases that (1) the police failed to provide him with his implied consent warnings, pursuant to Hawai'i Revised Statutes (HRS) § 286-151 (Supp. 2000), and (2) HRS § 286-163 (Supp. 2000) violates the equal protection and due process clauses of the United States and Hawai'i Constitutions and is void for vagueness.

The prosecution argues that the police were not required to comply with the prerequisites to a blood test pursuant to HRS § 286-151, because the blood test was authorized by HRS § 286-163, and that Uejo's constitutional arguments are without any merit.

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 agree with the prosecution and affirm the district court's judgment and sentence.

In light of our recent decision in State v. Entrekin, No. 24278 (Haw. May 9, 2002), holding (1) that HRS § 286-163 authorizes the police to obtain a blood sample of a driver involved in a collision resulting in an injury to or the death of any person, including the driver and (2) that the police are not required to comply with the prerequisites to a breath, blood, or urine test contained in HRS § 286-151 prior to obtaining a breath, blood, or urine sample pursuant to HRS § 286-163, we hold that Uejo's blood sample was lawfully drawn.

Moreover, we find no merit to Uejo's constitutional arguments. First, regarding his equal protection argument, Uejo has failed to establish that the police officer who obtained a mandatory blood sample from him, or any other relevant state decision maker, deliberately and intentionally discriminated against him "based upon an unjustifiable standard such as race, religion[, ] or other arbitrary classification." See State v. Villeza, 85 Hawai'i 258, 267-68, 942 P.2d 522, 531-32 (1997). Second, a mandatory blood test based on probable cause and exigent circumstances does not violate Uejo's right to due process, see Schmerber v. California, 384 U.S. 757, 759 (1966), and Uejo's trial afforded him due process with respect to his driver's license, see Kernan v. Tanaka, 75 Haw. 1, 31, 856 P.2d 1207, 1222 (1993); Sandy Beach Defense Fund v. City Council of the City and County of Honolulu, 70 Haw. 361, 378, 773 P.2d 250, 261 (1989). In this connection, Uejo does not claim that the

blood test was unsupported by probable cause or that exigent circumstances were not present. Third, HRS § 286-163 is not unconstitutionally vague. See Gardens at West Maui Vacation Club v. County of Maui, 90 Hawai'i 334, 343, 978 P.2d 772, 781 (1999); Entrekin, slip op. at 2 (interpreting HRS § 286-163 according to its plain language). Therefore,

IT IS HEREBY ORDERED that the district court's judgment and sentence from which the appeal is taken is affirmed.

DATED: Honolulu, Hawai'i, June 25, 2002.

On the briefs:

Keith M Kiuchi, of Kiuchi  
& Nakamoto, for the  
defendant-appellant,  
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