

NO. 24183

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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STATE OF HAWAI'I, Plaintiff-Appellant,

vs.

WAYNE BARNSLATER, Defendant-Appellee.

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APPEAL FROM THE FIRST CIRCUIT COURT  
(CR. NO. 97-2105)

MEMORANDUM OPINION

(By: Moon, C.J., Levinson, Nakayama, and Acoba, JJ.,  
and Circuit Judge Wilson, assigned by reason of vacancy)

Plaintiff-appellant State of Hawai'i (the prosecution) appeals from the order granting defendant-appellee Wayne Barnslater's (Defendant's) motion to dismiss charges filed in the Circuit Court of the First Circuit, the Honorable Sandra A. Simms presiding. On appeal, the prosecution argues that the circuit court abused its discretion when it exercised its inherent powers to administer justice and dismissed the charges against Defendant. On the facts of this case, we agree and, therefore, vacate the order of dismissal and remand this case for further proceedings.

## I. BACKGROUND

On November 25, 1998, Defendant pled guilty<sup>1</sup> to three charges: (1) habitually driving under the influence of intoxicating liquor or drugs, in violation of Hawai'i Revised Statutes (HRS) §§ 291-4.4(a)(1) and -4.4(a)(2) (1995);<sup>2</sup> (2) driving without a license (DWOL), in violation of HRS § 286-102 (1993); and (3) failure to stop at a stop sign, in violation of HRS § 291C-63(b) (1993). At the time Defendant was to enter his plea, he was serving a term of probation in Illinois on unrelated charges. Thus, the prosecution extradited him in order to ensure his presence in Hawai'i, incurring travel expenses and other related costs. After entering his plea, Defendant was returned to Illinois and subsequently sentenced to a twelve-year term of imprisonment on the unrelated charges.

Sentencing on the Hawai'i charges was originally scheduled for March 16, 1999, but was repeatedly postponed for reasons linked to the status of the Illinois criminal proceedings. It is undisputed that the prosecution acted diligently in its attempt to proceed with sentencing.

On February 23, 2001, Defendant filed a motion to dismiss the charges against him, pursuant to HRS § 603-21.9

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<sup>1</sup> The validity of the plea agreement is not in dispute.

<sup>2</sup> This statute was repealed effective January 1, 2002.

(1993),<sup>3</sup> which restates the court's inherent powers doctrine, and Hawai'i Rules of Penal Procedure (HRPP) Rule 47, the general motions rule. Defendant maintained that the interests of justice and judicial economy would be furthered by a dismissal of the charges against him based on the following factors: (1) the three charges to which he had pled guilty consisted of the lowest grade of felony, a misdemeanor, and a traffic violation; (2) the length of time the Hawai'i case had been pending; (3) his conviction and sentence in Illinois; and (4) the amount of money the State of Hawai'i would expend in order to extradite him for sentencing, return him to Illinois to complete his term of imprisonment, and, if necessary, bring him back to serve the Hawai'i sentence.

In opposition, the prosecution argued that Defendant had already pled guilty to the charges and that the delay in sentencing had been occasioned by the criminal proceedings in Illinois and Defendant's subsequent incarceration there. The prosecution suggested that, in lieu of a dismissal, the proper remedy would be to "bench warrant the [D]efendant and allow the State to take whatever steps it can in order to secure his presence in this jurisdiction, and that if for some reason he is

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<sup>3</sup> HRS § 603-21.9(6) recognizes that, among other things, the circuit courts have the power to "do such other acts and take such other steps as may be necessary to carry into full effect the powers which are or shall be given them by law or for the promotion of justice in the matters pending before them."

released in Illinois and does return to this jurisdiction, the State can then pick him up and have him be sentenced in this case." The prosecution urged the court to deny the motion on the basis that "[D]efendant should not be rewarded and be able to avoid the consequences of this case simply because he is serving time in Cook County[, Illinois,] for other felonies that are unrelated to this case."

After hearing the arguments<sup>4</sup> of the parties, the circuit court acknowledged that the difficulties that had arisen with regard to sentencing Defendant were beyond the control of the parties. The court also indicated that, on the basis of the presentence investigation report, there was a strong likelihood that Defendant would have been granted probation at the time sentencing was originally to have occurred. Finally, the circuit court expressed the view that it did not "make a lot of sense" for the State "to pay again to bring [Defendant] back and then pay again to incarcerate him." The circuit court orally granted the motion and dismissed the charges with prejudice. In its written order, filed on March 8, 2001, the circuit court found that the factors cited by Defendant were sufficient to justify the court's exercise of its inherent power to dismiss a case in the interest of justice. This timely appeal followed.

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<sup>4</sup> Because he remained incarcerated in Illinois, Defendant was not present at the hearing, but was represented by counsel.

## II. STANDARD OF REVIEW

A trial court's exercise of its inherent power to administer justice is reviewed under an abuse of discretion standard. State v. Moriwake, 65 Haw. 47, 56, 647 P.2d 705, 712 (1982). However, in light of the "magnitude of the respective interests of society and of criminal defendants which are implicated in this area of the law[,] " the bounds within which a trial court is free to exercise its discretion have been carefully delineated. Id. In this context, an abuse of discretion occurs when the written factual findings supporting the order of dismissal fail to reflect a proper "balancing of the interest of the state against fundamental fairness to a defendant with the added ingredient of the orderly functioning of the court system." State v. Mageo, 78 Hawai'i 33, 37-38, 889 P.2d 1092, 1096-97 (App. 1995) (discussing test adopted in Moriwake) (brackets omitted).

## III. DISCUSSION

The circuit court's written order dismissing the charges against Defendant states in relevant part:

This Court strongly considers [the] following factors in dismissing the charges in this case:

1. The major charge against Defendant, the Habitual DUI charge, is the lowest grade of felony, a Class C felony, in the Hawai'i Penal Code. The other charges, the DWOL[,] is a misdemeanor[,] and Failure to Stop At A Stop Sign is a violation. The offenses involves [sic] no injuries to any person or property crimes, but traffic offenses.

2. The case is over 4 years old as it occurred on January 11, 1997 with Defendant indicted on August 27, 1997.

3. The Defendant is already serving a 12 year sentence at the Illinois Department of Corrections.

4. The State has already expended almost \$3,000.00 to extradite Defendant back to Hawai'i. The State is expected to spend at least double that amount to again extradite Defendant back from Illinois for his sentencing then having to return Defendant to Illinois to serve the remainder of his 12 year Illinois term of imprisonment. The State may even have to spend more if it is necessary to bring Defendant back to serve his Hawai'i sentence after his Illinois sentence is over.

Based upon these factors, this Court dismisses the charges under the inherent power of the court in the interests of justice and judicial economy.

On appeal, the prosecution contends that the circuit court abused its discretion by failing to properly apply the balancing test articulated in Moriwake. We agree.

We have repeatedly "cautioned that a trial court's inherent power to dismiss an indictment is not a broad power and that trial courts must recognize and weigh the State's interest in prosecuting crime against fundamental fairness to the defendant" and the integrity of the judicial process. State v. Wong, 97 Hawai'i 512, 527, 40 P.3d 914, 929 (2002) (quoting State v. Lincoln, 72 Haw. 480, 490-91, 825 P.2d 64, 70-71 (1992), and citing Moriwake, 65 Haw. at 56, 647 P.2d at 712, and State v. Alvey, 67 Haw. 49, 57-58, 678 P.2d 5, 10 (1984)). In this case, we conclude that the trial court abused its discretion because none of the factors upon which the court based its dismissal of the charges indicate that the State's interest in prosecuting crime was outweighed by considerations involving fundamental fairness or the integrity of the judicial process.

Here, there were no allegations that Defendant was exposed to any unfairness as a result of the criminal proceedings against him. Similarly, nothing in the circuit court's written order evinces the need to dismiss these charges in order to ensure the integrity of the judicial process. Ultimately, the circuit court's decision to grant Defendant's motion was premised on its conclusion that the expenditure of money to assure Defendant's presence for sentencing and his possible incarceration in Hawai'i represented a poor use of limited economic resources. In making this determination, the circuit court considered the gravity of the offenses committed by Defendant and the fact that, because he was incarcerated in Illinois, a lengthy period of time might elapse before Defendant could serve any sentence imposed on him in Hawai'i.

Although we might agree with the circuit court that the State's limited resources might be better expended on other cases, judicial economy and justice were not implicated by the prosecution's decision to pursue this case. In exercising its inherent powers to administer justice, a trial court is required to respect the integrity and independence of other co-equal branches of government. Cf. State v. Augafa, 92 Hawai'i 454, 470-71, 992 P.2d 723, 739-40 (App. 1999). If the prosecution wishes to expend significant amounts of money to repeatedly extradite a defendant in order to ensure that he or she is held

accountable to the community for the crimes committed, it has the prerogative to do so. A trial court should exercise its discretion to dismiss an indictment only where the State's interest in prosecuting crime is outweighed by considerations of fairness to a defendant and the integrity of the judicial process. We believe the circumstances present in this case did not warrant, and cannot justify, the dismissal of the charges.

#### IV. CONCLUSION

Based on the foregoing, we vacate the First Circuit Court's March 8, 2001 order granting Defendant's motion to dismiss charges and remand this case for further proceedings.

DATED: Honolulu, Hawai'i, January 23, 2003.

On the briefs:

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