

NO. 24683

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee,

vs.

DWAYNE KEOKI ELABAN, Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(TRAFFIC NOS. 001305899; 001305900; 001305901; 001305902;
001305903; 001305904)

SUMMARY DISPOSITION ORDER

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

Defendant-appellant Dwayne Keoki Elaban appeals from the August 2, 2004 judgment of conviction and sentence of the district court of the first circuit,¹ finding Elaban guilty of a number of traffic offenses and sentencing him to perform community service. On appeal, Elaban argues that he has a constitutional right to travel and that the State cannot require him to have a driver's license as a condition of using the roads; he also argues that Hawai'i Revised Statutes (HRS) 286-102 (1993 & Supp. 2000) violates his right to due process of law.

Upon carefully reviewing the record and the briefs submitted by the parties, and having given due consideration to the arguments advocated and the issues raised, we affirm the district court's judgment of conviction and sentence.

Specifically, we hold that: (1) HRS § 286-102, on its face,

¹ The Honorable Russell Blair presided over this matter.

applied to Elaban even if he was not traveling for business purposes; (2) HRS § 286-102, on its face, did not infringe upon Elaban's right to travel because the State, through its police power, was authorized to regulate the operation of motor vehicles for the safety and order of the general public by requiring that all persons who operate motor vehicles on state highways possess a valid driver's license, see State v. French, 77 Hawai'i 222, 883 P.2d 644 (App. 1994); and (3) Elaban's due process rights were not violated, inasmuch as HRS § 286-102 did not infringe upon Elaban's right to travel. Consequently, Elaban was not entitled to notice or an opportunity to be heard prior to the application of HRS § 286-102, see State v. Bani, 97 Hawai'i 285, 293, 36 P.3d 1255, 1263 (2001). Therefore,

IT IS HEREBY ORDERED that the district court's August 2, 2004 judgment of conviction and sentence is affirmed.

DATED: Honolulu, Hawai'i, September 7, 2004.

On the briefs:

Dwayne Keoki Elaban,
defendant-appellant
pro se

Daniel H. Shimizu,
Deputy Prosecuting Attorney,
for plaintiff-appellee
State of Hawai'i