

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellant

vs.

CRAIG AARON STORY, Defendant-Appellee

APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT
(CR. NO. TR8-11: 12/12/01)

SUMMARY DISPOSITION ORDER

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

Plaintiff-appellant State of Hawai'i [hereinafter the prosecution] appeals the January 4, 2002 pretrial order, issued by the district court of the second circuit, the Honorable Paul Horikawa presiding, granting defendant-appellee Craig Aaron Story's (Story) motion to suppress evidence, specifically a blood test, obtained pursuant to Hawai'i Revised Statutes (HRS) § 286-163 (Supp. 2000).¹ On appeal, the prosecution challenges two of the district court's findings of fact, as set forth below:

¹ HRS § 286-163 provides in relevant part that:

- (a) Nothing in this part shall be construed to prevent the police from obtaining a sample of breath, blood, or urine as evidence of intoxication or influence of drugs from the driver of any vehicle involved in a collision resulting in injury to or the death of any person.
. . . .
- (c) In the event of a collision resulting in injury or death, and the police have probable cause to believe that a person involved in the incident has committed a violation of section . . . 291-4 . . . the police shall request that a sample of blood or urine be recovered from the driver or any other person suspected of committing a violation of section . . . 291-4
- (d) The police shall make the request under subsection (c) to the hospital or medical facility treating the person from whom the police request that the blood or urine be recovered. . . .

19. Officer Correa neither requested nor demanded that Mr. Saribay submit to a test of breath or blood to determine the alcoholic concentration his [sic] blood, breath or urine.
. . . .
28. Officer Correa requested that a sample of Defendant's blood be drawn for purposes of an investigation of a motor vehicle accident and not as part of an investigation as to whether Defendant was driving a motor vehicle while under the influence of intoxicating liquor.
. . . .

The prosecution also argues that the district court erred in granting Story's motion to suppress the results of the blood test because: (1) a bicycle is a "vehicle" for purposes of HRS § 286-163(a), and (2) there was sufficient probable cause for the officer to request a blood draw pursuant to HRS § 286-163(c). Story argues that the district court did not clearly err in its findings of fact and that it properly ruled that HRS § 286-163 was inapplicable because a bicycle is not a "vehicle" for purposes of the Hawaii Highway Safety Act and there was insufficient probable cause, as the only factor indicating that a DUI had occurred was the odor of liquor.

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, we hold that: (1) the district court did not clearly err with respect to finding of fact #19 because the record does not lack substantial evidence to support it; (2) the district court clearly erred with respect to finding of fact #28 because the record was replete with evidence that Officer Correa was investigating a violation of HRS § 291-4 (DUI) and the record lacked substantial evidence to the contrary; (3) HRS § 286-163(a) is applicable to this case because although a bicycle is not a "vehicle" pursuant to the Hawaii Highway

Safety Act (HRS § 286), under the plain language and legislative history of HRS § 286-163(a), this does not prevent the police from obtaining a blood sample when there has been a collision and the police have probable cause to believe a DUI violation has occurred; and (4) HRS § 286-163(c) is applicable to this case because the police had probable cause to believe that a violation of HRS § 291-4 occurred based on the odor of liquor emanating from Story and the nature of the collision. Therefore,

IT IS HEREBY ORDERED that the district court's pretrial order granting Story's motion to suppress the results of the blood test is vacated and this case remanded for further proceedings.

DATED: Honolulu, Hawai'i, December 20, 2002.

On the briefs:

Tracy A. Jones,
Deputy Prosecuting Attorney
for plaintiff-appellant

Richard L. Rost,
for defendant-appellee