

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 25838

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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STATE OF HAWAI'I, Plaintiff-Appellee

vs.

PO'OKELA RODENHURST, Defendant-Appellant

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APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
(HPD TRAFFIC NO. 5327583MO)

SUMMARY DISPOSITION ORDER

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

Defendant-appellant Po'okela Rodenhurst (Rodenhurst) appeals from the October 8, 2003 judgment of the district court of the first circuit, the Honorable John Campbell presiding, convicting him of and sentencing him for driving without a license, in violation of Hawai'i Revised Statutes (HRS) § 286-102 (1993 & Supp. 2003).<sup>1</sup> On appeal, Rodenhurst argues that HRS §

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<sup>1</sup> HRS § 286-102 provides:

(a) No person, except one exempted under section 286-105, one who holds an instruction permit under section 286-110, one who holds a commercial driver's license instruction permit issued under section 286-236, shall operate any category of motor vehicles listed in this section without first being appropriately examined and duly licensed as a qualified driver of that category of motor vehicles.

(b) A person operating the following category or combination of categories of motor vehicles shall be examined as provided in section 286-108 and duly licensed by the examiner of drivers:

- (1) Mopeds;
- (2) Motorcycles and motor scooters;
- (3) Passenger cars of any gross vehicle weight rating, buses designed to transport fifteen or fewer occupants, and trucks and vans having a gross vehicle weight rating of fifteen thousand pounds or less; and
- (4) All of the motor vehicles in category (3) and trucks having a gross vehicles weight rating of fifteen thousand one through twenty-six thousand pounds.

A school bus or van operator shall be properly

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286-102 did not apply to him, the district court's application of HRS § 286-102 infringed upon his constitutional right to travel, and HRS § 286-102 violated his right to due process under the law.

Upon carefully reviewing the record and the briefs submitted and having given due consideration to the issues raised and arguments advanced, we initially hold that the merits of the issues raised by Rodenhurst will be addressed, notwithstanding his failure to comply with the requirements of Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b), inasmuch as this court

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licensed to operate the category of vehicles that the operator operates as a school bus or van and shall comply with the standards of the department of transportation as provided by rules adopted pursuant to section 286-181.

(c) No person shall receive a driver's license without surrendering to the examiner of drivers all valid driver's licenses in the person's possession. All licenses so surrendered shall be returned to the issuing authority, together with information that the person is licensed in this State; provided that with the exception of driver's licenses issued by any Canadian province, a foreign driver's license may be returned to the owner after being invalidated pursuant to issuance of a Hawaii license; and provided further that the examiner of drivers shall notify the authority that issued that foreign license that the license has been invalidated and returned because the owner is now licensed in this State. No person shall be permitted to hold more than one valid driver's license at any time.

(d) In addition to other qualifications and conditions by or pursuant to this part, the right of an individual to hold a motor vehicle operator's license or permit issued by the county is subject to the requirements of section 576D-13.

Upon receipt of certification from the child support enforcement agency pursuant to section 576D-13 that an obligor or individual who owns or operates a motor vehicle is not in compliance with an order of support as defined in section 576D-1 or has failed to comply with a subpoena or warrant relating to a paternity or child support proceeding, the examiner of drivers shall suspend the license and right to operate motor vehicles and confiscate the license of the obligor. The examiner of drivers shall not reinstate an obligor's or individual's license until the child support enforcement agency, the office of child support hearings, or the family court issues an authorization that states the obligor or individual is in compliance with an order of support or has complied with a subpoena or warrant relating to a paternity or child support hearing.

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favors a policy of affording pro se litigants the opportunity to have their cases heard on the merits, where possible. See HRAP Rule 28(b); Housing Fin. and Dev. Corp. v. Ferguson, 91 Hawai'i 81, 979 P.2d 1107 (1999). We further hold that: (1) HRS § 286-102, on its face, applied to Rodenhurst and did not infringe upon his right to travel, inasmuch as 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 (2) Rodenhurst's due process rights were not violated, inasmuch as HRS § 286-102 did not infringe upon Rodenhurst's right to travel, and, therefore, he was not entitled to notice or an opportunity to be heard prior to the statute's application, see State v. Adam, 97 Hawai'i 475, 40 P.3d 877 (2002). Therefore,

IT IS HEREBY ORDERED that the district court's October 8, 2003 judgment, from which the appeal is taken, is affirmed.

DATED: Honolulu, Hawai'i, April 30, 2004.

On the briefs:

Po'okela Rodenhurst,  
defendant-appellant pro se

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State of Hawai'i