

NO. 22647

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
SIPU LAUPO KIVAHA, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
(TD 1A of 6/8/99 (Traffic No. 4733037MO))

SUMMARY DISPOSITION ORDER

(By: Burns, C.J., Watanabe, and Lim, JJ.)

The sole argument raised by Defendant-Appellant Sipu Laupo Kivaha (Defendant) in this appeal is that the District Court of the First Circuit erred in concluding that he operated a motor vehicle while his driver's license was administratively revoked for driving under the influence of intoxicating liquor because there was insufficient evidence adduced by Plaintiff-Appellee State of Hawai'i that: (1) Defendant received notice that his driver's license had been administratively revoked; and (2) if Defendant, who attended school in Tonga, had received such notice, he could read and understand the notice. We conclude that Defendant's argument is meritless.

The record on appeal includes a copy of a "Notice of Administrative Review Decision," certified to have been mailed by the Administrative Driver's License Revocation Office to Defendant at his current address on January 6, 1999, a few days

after Defendant's arrest, notifying Defendant that his driver's license was being "revoked from 02/02/99 to 05/01/99." The police officer who arrested Defendant for the charge that gave rise to this appeal testified that Defendant spoke to him in English and was able to understand what the officer was talking about. Although Defendant testified that he never received the notice and would not have been able to read and understand it even if he had, the district court apparently did not believe Defendant's testimony, and we will not second-guess the court's determination of credibility on appeal.

In light of the record, we affirm the judgment entered by the district court on June 8, 1999, convicting and sentencing Defendant for Driving After License Suspended or Revoked for Driving Under the Influence of Intoxicating Liquor, a violation of Hawai'i Revised Statutes § 291-4.5 (Supp. 2000).

DATED: Honolulu, Hawai'i, January 23, 2001.

On the briefs:

Shirley M. Kawamura,  
Deputy Public Defender,  
State of Hawai'i, for  
defendant-appellant.

Alexa D. M. Fujise,  
Deputy Prosecuting Attorney,  
City and County of Honolulu,  
for plaintiff-appellee.