

NO. 24015

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
HIDETOSHI KAUILA MOGI, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
(Traffic No. 5014355MO)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Hidetoshi Kauila Mogi (Mogi) appeals from: (1) the "Findings of Fact, Conclusions of Law and Order Denying Defendant's Motion to Suppress Statements and Evidence Obtained from Illegal Stop[,]" entered by the District Court of the First Circuit<sup>1</sup> (the district court) on December 18, 2000; and (2) the judgment and sentence, entered by the district court on December 11, 2000, convicting and sentencing him for Driving Without No Fault Insurance, in violation of Hawaii Revised Statutes § 431:10C-104 (Supp. 2000). Mogi's sole argument is that his vehicle was illegally stopped by a police officer on the evening of July 30, 2000 and, therefore, any

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<sup>1/</sup> The presiding judge was the Honorable Leslie A. Hayashi.

evidence obtained by the officer after the stop constituted the fruit of an unlawful seizure which should have been suppressed by the district court.

Based on our review of the record, we disagree with Mogi.

The Hawai'i Supreme Court has stated that the legitimacy of an automobile stop and the detention of its occupants "is dependent on whether or not [the stop] is found to be reasonable, upon balancing the public interest it promotes and the individual's right to be free from arbitrary interference by government officials." State v. Powell, 61 Haw. 316, 320, 603 P.2d 143, 147 (1979). The supreme court has also recognized that

the State has a legitimate and substantial interest in promoting the safe use of its streets and highways. Accordingly, its authority to stop vehicles in cases of observed traffic or equipment violations cannot be seriously questioned. State v. Bonds, 59 Haw. [130,] 135, 577 P.2d [781,] 785 [(1978)].

Id. In evaluating the legality of an automobile stop, we apply the standard set forth by the United States Supreme Court in Terry v. Ohio, 392 U.S. 1 (1968). State v. Bolosan, 78 Hawai'i 86, 92, 890 P.2d 673, 679 (1995). Under this standard,

[t]o justify an investigative stop, short of arrest based on probable cause, "the police officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion." The ultimate test in these situations must be whether from these facts, measured by an objective standard, a man of reasonable caution would

be warranted in believing that criminal activity was afoot and that the action taken was appropriate.

Id. (quoting State v. Barnes, 58 Haw. 333, 338, 568 P.2d 1207, 1211 (1977), block formatting and citation omitted).

The record in this case reveals that at the pre-trial hearing on Mogi's motion to suppress, the police officer who arrested Mogi was able to articulate with specificity the observations that prompted him to stop Mogi's vehicle. The officer testified that he stopped Mogi after noticing that the safety check sticker on Mogi's car was one which "looked like someone had put dirt over it or mud, trying to like disguise it or something." The officer related that this observation was significant to him because "through [his] training and experience [he knew] that people tend to do that to try to disguise their expired safety [check sticker]." The officer further testified that he had a clear and unobstructed view of Mogi's vehicle and that Mogi's safety check sticker appeared to be "red or brown," indicating a 2000 safety check sticker, rather than a 2001 safety check sticker, which would have been yellow in color.

Viewed from an objective standpoint, we conclude that the foregoing facts and the rational inferences drawn therefrom were sufficient to raise a reasonable suspicion that Mogi may have been driving a vehicle with an expired safety check sticker, a violation of our traffic laws. Therefore, the stop of Mogi's vehicle was constitutionally permissible and the district court

did not err when it denied Mogi's motion to suppress the evidence obtained following the stop.

In light of the foregoing discussion, we affirm:

(1) the "Findings of Fact, Conclusions of Law and Order Denying Defendant's Motion to Suppress Statements and Evidence Obtained from Illegal Stop[,] " entered by the district court on December 18, 2000; and (2) the judgment of conviction and sentence, entered by the district court on December 11, 2000.

DATED: Honolulu, Hawai'i, July 22, 2002.

On the briefs:

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