

NOT FOR PUBLICATION

NO. 25288

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
ALFRED NAPAHUELUA SPINNEY, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT,
NORTH AND SOUTH KONA DIVISION
(Report Nos. 1458906MH, 1496908MH,
1496909MH, 1496910MH, and 1460646MH)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Alfred Napahuelua Spinney (Spinney) appeals from the Judgment entered by the District Court of the Third Circuit¹ (the district court) on July 29, 2002. The Judgment found Spinney "guilty as charged" of five traffic infractions relating to citations issued on February 9,² 15,³ and 20,⁴ 2002, and sentenced him to a one-year driver's license suspension and to pay fines and fees totaling \$1,783. Spinney filed a timely Notice of Appeal on August 23, 2002, and the appeal was assigned to this court on February 9, 2004.

¹ Judge Joseph P. Florendo, Jr. presided.

² On February 9, 2002, Defendant-Appellant Alfred Napahuelua Spinney (Spinney) was observed operating a motor vehicle bearing a "Hawaiian Kingdom" license plate without the use of seatbelts and was issued citations for violating Hawaii Revised Statutes (HRS) §§ 291-11.6 (1993 & Supp. 2001) (failure to wear a seatbelt), 286-25 (1993) (no safety check), and 431:10C-104 (Supp. 2004) (no no-fault, i.e., motor vehicle insurance).

³ On February 15, 2002, Spinney was charged with failure to wear a seatbelt while driving, in violation of HRS § 291-11.6.

⁴ On February 20, 2002, Spinney was again cited for failure to wear a seatbelt.

The sole argument raised by Spinney on appeal is that because he is a native Hawaiian, a citizen of the Kingdom of Hawai'i, and a person who has granted his allegiance to the Kingdom of Hawai'i, the district court lacked jurisdiction to hear and decide his cases. In light of State v. Lee, 90 Hawai'i 130, 976 P.2d 444 (1999), State v. Lorenzo, 77 Hawai'i 219, 883 P.2d 641 (App. 1994), and State v. French, 77 Hawai'i 222, 883 P.2d 644 (App. 1994), Spinney's argument has no merit.

We note, however, that pursuant to Hawaii Revised Statutes (HRS) § 291D-2 (1993),⁵ the failure to wear a seatbelt and the no-safety-check offenses that Spinney was accused of committing were civil traffic infractions since the "prescribed penalties" for these infractions "do not include imprisonment." Therefore, the Judgment entered by the district court should not have found Spinney "guilty" of these traffic infractions but instead should have entered judgment for Plaintiff-Appellee State of Hawai'i as to these traffic infractions. See HRS § 291D-8(a)(4) (Supp. 2004).⁶ Accordingly, we remand this case

⁵ HRS § 291D-2 (1993) defines a traffic infraction as "all violations of statutes, ordinances, or rules relating to traffic movement and control, including parking, standing, equipment, and pedestrian offenses, for which the prescribed penalties do not include imprisonment."

⁶ HRS § 291D-8(a)(4) (Supp. 2004) provides, in relevant part, as follows: "Where it has been established that the traffic infraction was committed, the court shall enter judgment for the State and may assess a monetary assessment pursuant to section 291D-9."

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to the district court for entry of an Amended Judgment consistent with this opinion.

DATED: Honolulu, Hawai'i, February 4, 2005.

On the briefs:

Lionel M. Riley for
defendant-appellant.

Frederick Giannini,
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Hawai'i, for
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