

NOT FOR PUBLICATION

NO. 25375

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STANLEY T. YOKOTSUJI, Petitioner-Appellant, v.
ADMINISTRATIVE DIRECTOR OF THE COURT, STATE OF HAWAII,
Respondent-Appellee

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(JR02-0030)

SUMMARY DISPOSITION ORDER

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

Stanley Toshio Yokotsuji (Petitioner) brings this secondary appeal of the September 3, 2002 judgment on appeal, and the underlying decision and order of even date, entered by the district court of the first circuit¹ upon his July 12, 2002 petition for judicial review. The district court's judgment on appeal affirmed the June 17, 2002 administrative hearing decision of the administrative driver's license revocation office, which affirmed, in turn, the administrative revocation of Petitioner's driver's license for one year.

After a diligent review of the record and the briefs submitted by the parties, and giving careful consideration to the arguments advanced and the issues raised by the parties, we resolve Petitioner's points of error as follows:

1. Petitioner first contends the district court erred in failing to reverse the administrative hearing decision,

¹ The Honorable Clarence A. Pacarro, judge presiding.

NOT FOR PUBLICATION

because the hearings officer accepted the police report into evidence without the separate sworn statement also required by Hawaii Revised Statutes (HRS) § 291E-36(a)(1) (Supp. 2003). We disagree. The documents admitted by the hearings officer satisfied the dictates of the statute. Kernan v. Tanaka, 75 Haw. 1, 31-35, 856 P.2d 1207, 1223-24 (1993); Desmond v. Admin. Dir. of the Courts, 91 Hawai'i 212, 214 n.1, 219 n.4, 982 P.2d 346, 348 n.1, 353 n.4 (App. 1998).

2. Petitioner next contends the district court erred in failing to reverse the administrative hearing decision, because the hearings officer erroneously concluded the arresting officer had reasonable suspicion to make the predicate traffic stop. Essentially, Petitioner argues that his testimony at the hearing was credible, while the arresting officer wove his sworn statement from a fabric of lies. This argument is unavailing. Given the prerogative of agency fact-finders in the areas of credibility and the weight of the evidence, see, e.g., Igawa v. Koa House Rest., 97 Hawai'i 402, 409-10, 38 P.3d 570, 577-78 (2001), there was substantial evidence to support the hearings officer's findings that the arresting officer initially observed Petitioner speeding without his seat belt fastened. Nakamura v. State, 98 Hawai'i 263, 267, 47 P.3d 730, 734 (2002). Hence, the hearings officer was correct in concluding, State v. Kauhi, 86 Hawai'i 195, 197, 948 P.2d 1036, 1038 (1997), that the arresting officer had the requisite reasonable suspicion to make the

NOT FOR PUBLICATION

traffic stop. Kernan, 75 Haw. at 37, 856 P.2d at 1225.

3. Finally, Petitioner contends the district court erred in failing to reverse the administrative hearing decision, because the hearings officer erroneously failed to suppress Petitioner's breath test result upon a finding that the arresting officer misinformed Petitioner about his rights *vis-a-vis* taking a breath test versus a blood test. This point lacks merit:

Assuming *arguendo* [Petitioner's blood alcohol concentration] test result . . . was suppressible . . . , the [hearings officer's] alternative finding that [Petitioner] had operated his vehicle in violation of HRS § [291E-61(a)(1) (Supp. 2003)] was supported in the record and, thus, was an independent ground upon which to sustain revocation.

Spock v. Admin. Dir. of the Courts, 96 Hawai'i 190, 191, 29 P.3d 380, 381 (2001).

Therefore,

IT IS HEREBY ORDERED that the September 3, 2002 judgment on appeal and the underlying decision and order of even date are affirmed.

DATED: Honolulu, Hawai'i, June 28, 2004.

On the briefs:

Keith M. Kiuchi
(Kiuchi & Nakamoto), for
petitioner-appellant.

Girard D. Lau, Deputy
Attorney General, State of
Hawai'i, for respondent-appellee.

Chief Judge

Associate Judge

Associate Judge