

NOT FOR PUBLICATION

NO. 25666

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee, v.
JAMES TRUEMAN, Defendant-AppellantAPPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 02-1-1286)NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

2005 APR 22 AM 10:27

FILED

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant James Trueman (Trueman) appeals the Judgment filed on February 6, 2003 in the Circuit Court of the First Circuit (circuit court).^{1/}

On appeal, Trueman contends the circuit court erred by denying his "Motion to Suppress Items of Evidence and Statements" filed September 20, 2002.

Upon careful review of the record and briefs submitted by the parties, we hold:

(1) The circuit court's finding of fact that Trueman consented to the search of his vehicle by voluntarily signing a written consent to search form was not clearly erroneous. State v. Patterson, 58 Haw. 462, 467-70, 571 P.2d 745, 748-50 (1977); State v. Fields, 67 Haw. 268, 280, 686 P.2d 1379, 1388-89 (1984).

^{1/} The Honorable Virginia L. Crandall presided.

(2) The circuit court's failure to suppress evidence and Trueman's statements because Trueman's parole officer did not give Trueman Miranda warnings during the search of Trueman's vehicle was not plain error (Trueman not having advanced this argument in support of his motion to suppress the evidence taken from his vehicle by his parole officer). Hawai'i Rules of Penal Procedure Rule 52(b); State v. Vanstory, 91 Hawai'i 33, 42, 979 P.2d 1059, 1068 (1999).

Therefore,

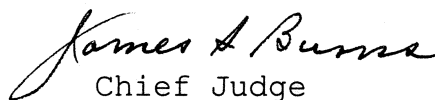
The February 6, 2003 Judgment of the Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, April 22, 2005.

On the briefs:

Edward K. Harada,
Deputy Public Defender,
for defendant-appellant.

James M. Anderson,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for plaintiff-appellee.


Chief Judge


Associate Judge


Associate Judge