

NOT FOR PUBLICATION

NO. 26490

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

VERNON B. LUKE, Petitioner-Appellant, v.
ADMINISTRATIVE DIRECTOR OF THE COURTS, STATE OF HAWAII,
Respondent-Appellee

K. HAMAKAHO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2005 DEC 30 AM 7:51

FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION

(JR04-0002)

SUMMARY DISPOSITION ORDER

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

Vernon Bradley Luke (Luke) appeals the March 10, 2004 judgment of the District Court of the First Circuit (district court).¹ The district court affirmed the January 2, 2004 decision of a hearing officer of the Administrative Driver's License Revocation Office, which, in turn, affirmed the administrative revocation of Luke's driver's license under Hawaii Revised Statutes (HRS) ch. 291E, part III (Supp. 2004).

After a meticulous 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 Luke's points of error on appeal as follows:

1. The applicable law does not require the hearing officer to follow the procedure proposed by Luke, nor does it

¹ The Honorable Lono J. Lee presided.

NOT FOR PUBLICATION

prohibit the hearing officer from admitting the entire case file into evidence, Desmond v. Admin. Dir. of Courts, 91 Hawai'i 212, 218-20, 982 P.2d 346, 352-54 (App. 1998) (Desmond I), rev'd on other grounds, 90 Hawai'i 301, 978 P.2d 739 (1999) (Desmond II); Desmond II, 90 Hawai'i at 302, 978 P.2d at 740; Freitas v. Admin. Dir. of Courts, 108 Hawai'i 31, 44-46, 116 P.3d 673, 686-88 (2005); Dunaway v. Admin. Dir. of Courts, 108 Hawai'i 78, 83-84, 117 P.3d 109, 114-15 (2005); Custer v. Admin. Dir. of Courts, 108 Hawai'i 350, 353-54, 120 P.3d 249, 252-53 (2005), and we cannot and hence will not overrule Desmond I on these points. Dunaway, 108 Hawai'i at 84, 117 P.3d at 115; Custer, 108 Hawai'i at 353-54, 120 P.3d at 252-53.

2. In addition to the sworn statement and testimony of the arresting police officer, the sworn statement of the stopping police officer, which was properly considered by the hearing officer, Desmond I, 91 Hawai'i at 220, 982 P.2d at 354; Desmond II, 90 Hawai'i at 302, 978 P.2d at 740; Freitas, 108 Hawai'i at 45-46, 116 P.3d at 687-88; Dunaway, 108 Hawai'i at 83-84, 117 P.3d at 114-115; Custer, 108 Hawai'i at 353-54, 120 P.3d at 252-53, was replete with reasonable suspicion to stop and probable cause to arrest Luke. HRS § 291E-38(e). See also Kernan v. Tanaka, 75 Haw. 1, 30, 856 P.2d 1207, 1222 (1993).

NOT FOR PUBLICATION

Therefore,

IT IS HEREBY ORDERED that the March 10, 2004 judgment of the district court is affirmed.

DATED: Honolulu, Hawai'i, December 30, 2005.

On the briefs:

R. Patrick McPherson
for Petitioner-Appellant.

Girard D. Lau,
Deputy Attorney General,
State of Hawai'i,
for Respondent-Appellee.


Acting Chief Judge


Associate Judge


Associate Judge