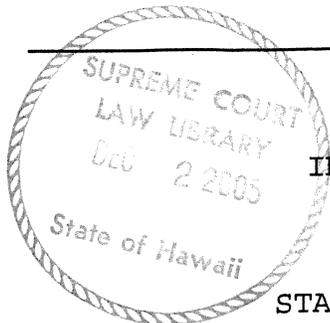


NOT FOR PUBLICATION

NO. 26564



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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
FRANK D. SCHILLECI, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT

(HPD Traffic No. 03033288)

KAHAKAKAUA
CLERK OF THE
STATE OF HAWAII

2005 NOV 29 AM 9:59

FILED

SUMMARY DISPOSITION ORDER

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

Frank D. Schilleci (Defendant) appeals the May 14, 2004 judgment of the District Court of the First Circuit (district court)¹ that convicted him of driving under the influence of an intoxicant.

After a painstaking 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 Defendant's points of error on appeal as follows:

1. The district court did not err in permitting the arresting officer to identify the "clues" he detected in Defendant's performance on the standardized field sobriety tests, and to opine that Defendant failed. State v. Ito, 90 Hawai'i 225, 240-41, 978 P.2d 191, 206-07 (App. 1999); State v. Ferrer, 95 Hawai'i 409, 429-30, 23 P.3d 744, 764-65 (App. 2001).

2. Any error the district court may have committed in connection with the arresting officer's testimony about the

¹

The Honorable Christopher P. McKenzie presided.

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National Highway Traffic Safety Administration manual was harmless beyond a reasonable doubt. State v. Holbron, 80 Hawai'i 27, 32, 904 P.2d 912, 917 (1995).

3. Any error the district court may have committed in refusing to take judicial notice of the printout from the Medline website was harmless beyond a reasonable doubt. Holbron, 80 Hawai'i at 32, 904 P.2d at 917.

Therefore,

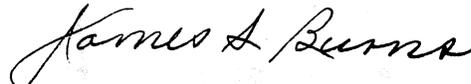
IT IS HEREBY ORDERED that the district court's May 14, 2004 judgment is affirmed.

DATED: Honolulu, Hawai'i, November 29, 2005.

On the briefs:

Earle A. Partington
for Defendant-Appellant.

Stephen K. Tsushima,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.


Chief Judge


Associate Judge


Associate Judge