

NO. 26882

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
HOWARD EARL K. BODE, Defendant-Appellant

E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

2006 APR 21 AM 7:52

FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT,
HONOLULU DIVISION
(HPD Traffic Nos. 5580051MO, 5580052MO, 5580053MO)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Howard Earl K. Bode (Bode) appeals from three Judgments filed on September 8, 2004 in the District Court of the First Circuit, Honolulu Division (district court).^{1/} After a bench trial, the district court found Bode guilty of the following:

- (1) Noncompliance with Speed Limit Prohibited, in violation of Hawaii Revised Statutes (HRS) § 291C-102 (Supp. 2003);
- (2) Racing on Highways, in violation of HRS § 291C-103(f) (1993 & Supp. 2005); and
- (3) Reckless Driving of Vehicle, in violation of HRS § 291-2 (Supp. 2005).

The district court fined Bode \$200 for the speeding violation, \$250 for the racing violation, and \$250 for the reckless driving

^{1/} Per diem District Court Judge Peter Esser presided.

violation; all fines were in addition to various fees and assessments.

On appeal, Bode argues that there was not substantial evidence to support his convictions because the State failed to prove that he was the driver of the car.

Upon careful review of the record and the briefs submitted by the parties, we hold that it was within the district court's discretion to determine the credibility of the witnesses at trial, and, based on the testimony given by Officer Steiner, whom the court did find credible, there was substantial evidence to support the court's findings. State v. Mattiello, 90 Hawai'i 255, 259, 978 P.2d 693, 697 (1999).

Therefore,

IT IS HEREBY ORDERED that the three Judgments filed in the District Court of the First Circuit, Honolulu Division, on September 8, 2004 are affirmed.

DATED: Honolulu, Hawai'i, April 21, 2006.

On the briefs:

Jon N. Ikenaga,
Deputy Public Defender,
for Defendant-Appellant.

Anne K. Clarkin,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.

Brunne K. A. Watanabe
Acting Chief Judge

Daniel R. Foley
Associate Judge

Craig H. Nakamura
Associate Judge