

NO. 27286

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
THOMAS WILLIAMS, Defendant-Appellant

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FILED

APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT,
WAILUKU DIVISION
(CASE NOS. 00424005M and TB35: 4/8/05)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Thomas Williams (Williams) appeals from the Judgment filed on April 8, 2005 in the District Court of the Second Circuit, Wailuku Division (district court).^{1/}

On March 5, 2004, Williams suffered a one-inch laceration to his lower lip when he lost control of his motorcycle while driving down Haleakala Highway and fell to the ground. When Officer Martins approached Williams for his driver's license, registration, and insurance cards, Officer Martins could tell that Williams had been drinking by the odor of alcohol on Williams' breath. Williams was taken to Maui Memorial Medical Center, where, at Officer Martins' request and without obtaining Williams' consent or a warrant, a forcible blood draw from Williams was done.

^{1/} Per diem District Court Judge Ruby A. Hamili presided.

On May 5, 2004, the State of Hawai'i (the State) charged Williams via a Complaint with one count of Operating a Vehicle Under the Influence of an Intoxicant, in violation of Hawaii Revised Statutes (HRS) § 291E-61 (Supp. 2003), and one count of Conditions of Operation and Registration of Motorcycles and Motorscooters, in violation of HRS § 431:10G-102 (2005 Rep.).^{2/}

On February 7, 2005, Williams filed a Motion to Suppress Evidence. In his motion, Williams argued that no probable cause existed to justify the forcible extraction of his blood pursuant to HRS § 291E-21(c) (Supp. 2003).^{3/} After a hearing on the motion, the district court entered an Order Denying Motion to Suppress Evidence. The district court reasoned that Officer Martins had probable cause to arrest Williams for Operating a Vehicle Under the Influence of an Intoxicant and Williams had significant injuries that justified the forced withdrawal of a blood sample. On April 8, 2005, Williams entered

^{2/} Count Two was subsequently dismissed with prejudice on proof shown.

^{3/} Hawaii Revised Statutes § 291E-21(c) (Supp. 2003) provides:

§291E-21 Applicable scope of part; mandatory testing in the event of a collision resulting in injury or death.

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(c) In the event of a collision resulting in injury or death and if a law enforcement officer has probable cause to believe that a person involved in the collision has committed a violation of section . . . 291E-61, . . . the law enforcement officer shall request that a sample of blood or urine be recovered from the vehicle operator or any other person suspected of committing a violation of section . . . 291E-61[.]

a conditional no contest plea pursuant to Hawai'i Rules of Penal Procedure Rule 11, reserving his right to appeal the court's denial of his Motion to Suppress Evidence. On that same day, the circuit court entered its Judgment, but stayed the sentence pending the appeal. On May 6, 2005, Williams filed the instant appeal.

On appeal, Williams argues that the district court erred in concluding that the odor of alcohol alone was sufficient to establish probable cause to justify a forcible blood extraction.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues as raised by the parties, we conclude that the facts and circumstances were sufficient to warrant a person of reasonable caution (Officer Martins) to believe that an offense had been committed (Williams riding his motorcycle under the influence of alcohol) and a significant injury had occurred (the laceration to Williams' lip), and therefore sufficient probable cause was established to order that a blood extraction be performed on Williams. Williams' nonconsensual blood extraction pursuant to HRS § 291E-21 was sound. State v. Aguinaldo, 71 Haw. 57, 62, 782 P.2d 1225, 1228 (1989); State v. Entrekin, 98 Hawai'i 221, 47 P.3d 336 (2002).

Therefore,

IT IS HEREBY ORDERED that the Judgment filed on April 8, 2005 in the District Court of the Second Circuit, Wailuku Division, is affirmed.

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

On the briefs:

Matthew S. Kohm
for Defendant-Appellant.

Peter A. Hanano,
Deputy Prosecuting Attorney,
County of Maui,
for Plaintiff-Appellee.


Chief Judge


Associate Judge


Associate Judge