

NO. 27368

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.  
CLINT KELAI KALAOLA, Defendant-Appellant

E.M. RIMANDO  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

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FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(CR. NO. 02-1-2779)

SUMMARY DISPOSITION ORDER

(By: Watanabe, Presiding Judge, Lim and Foley, JJ.)

Defendant-Appellant Clint Kelai Kalaola (Kalaola) appeals from the Amended Judgment of Conviction and Probation filed on May 11, 2005 in the Circuit Court of the First Circuit (circuit court).<sup>1/</sup> On December 18, 2002, the State of Hawaii (the State) charged Kalaola via an Indictment with one count of Operating a Vehicle Under the Influence of an Intoxicant, in violation of HRS § 291E-61(a)(3) (Supp. 2001), one count of Disregarding a Red Traffic Control Signal, in violation of HRS § 291C-32(a)(3)(A) (1993), and one count of Driving while License Revoked, in violation of HRS § 286-132 (Supp. 2005).

On January 20, 2005, Kalaola waived his right to a jury trial. At the close of the State's evidence, Kalaola moved for a judgment of acquittal based on, inter alia, the State's failure to prove sufficient evidence of the accurate warnings

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<sup>1/</sup> The Honorable Hilary Benson Gangnes presided at trial and signed the Judgment of Conviction and Probation. The Honorable Dexter Del Rosario signed the Amended Judgment of Conviction and Probation.

administered to Kalaola to enable him to knowingly and intelligently consent to or refuse the breath test, thereby rendering an insufficient foundation for the admissibility of the intoxilyzer test to Kalaola and the result of that test. The circuit court denied the motion, finding that the State had shown "with the credible testimony of its police officers that [Kalaola] was in fact read his rights and that [the police] followed procedures . . . under the law to apprise [Kalaola] of his rights with respect to the [Intoxilyzer] test [results.]"

The circuit court subsequently found Kalaola guilty of all three counts and entered its amended judgment on May 11, 2005. Kalaola timely appealed.

On appeal, Kalaola argues that the results of his breath test should have been suppressed because the police failed to properly inform him of the sanctions of the implied consent laws as required by Hawaii Revised Statutes (HRS) §§ 291E-11 (Supp. 2003), 291E-41 (Supp. 2003), and 291E-65 (Supp. 2005).

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 Officer Steiner properly informed Kalaola of the sanctions of the implied consent laws as required by Hawaii Revised Statutes and, therefore, Kalaola's conviction for Operating a Vehicle Under the Influence of an Intoxicant should

be affirmed.<sup>2/</sup> This court will not pass upon the circuit court's decision with respect to the credibility of Officer Steiner. State v. Balberdi, 90 Hawai'i 16, 21, 975 P.2d 773, 778 (App. 1999); State v. Topasna, 94 Hawai'i 444, 461, 16 P.3d 849, 866 (App. 2000); State v. Lioen, 106 Hawai'i 123, 130, 102 P.3d 367, 374 (App. 2004); State v. Barros, 105 Hawai'i 160, 170, 95 P.3d 14, 24 (App. 2004).

Therefore,

IT IS HEREBY ORDERED that the Amended Judgment of Conviction and Probation filed on May 11, 2005 in Circuit Court of the First Circuit is affirmed.

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

On the briefs:

James S. Tabe,  
Deputy Public Defender,  
for Defendant-Appellant.

  
Presiding Judge

Donn Fudo,  
Deputy Prosecuting Attorney,  
City and County of Honolulu,  
for Plaintiff-Appellee.

  
Associate Judge

  
Associate Judge

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<sup>2/</sup> Given that Kalaola has had five prior convictions for Operating a Vehicle Under the Influence of an Intoxicant (two of which were set aside, while the remaining three were upheld), Kalaola's contention that he lacked sufficient knowledge of the implied consent laws is even more unconvincing.