

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 27841

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
GEORGE LACY, III, Defendant-Appellant

NORMA T. YARRA  
CLERK, APPELLATE COURTS  
STATE OF HAWAI'I

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FILED

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT,  
KA'U DIVISION  
(Citation No. 1554402MH)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant George Lacy, III<sup>1/</sup> (Lacy or Appellant) appeals from the Judgment filed on March 8, 2006 in the District Court of the Third Circuit, Ka'u Division (district court).<sup>2/</sup>

On August 15, 2005, the State of Hawai'i (the State) charged Lacy via a Complaint with one count of Operation of a Vehicle Without a Certificate of Inspection, in violation of Hawaii Revised Statutes (HRS) § 286-25 (1993) (Count I), and one count of Driving Without a License, in violation of HRS § 286-102(a) (Supp. 2004) (Count II). The State subsequently dismissed Count I. The district court found Lacy guilty of operating a vehicle without being properly licensed (Count II) and filed its Judgment on March 8, 2006. Lacy timely appealed on March 23, 2006.

On appeal, Lacy argues that he received ineffective assistance of counsel; the traffic citation was defective in that it did not state Lacy's correct name or birth date; the traffic citation was not timely served; the case should have been

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<sup>1/</sup> George Lacy III is also known as George Moore and George Lacy Moore.

<sup>2/</sup> The Honorable Joseph P. Florendo, Jr. presided.

dismissed pursuant to Hawai'i Rules of Penal Procedure (HRPP) Rule 48; and the district court erred when it did not allow the recusal of the trial judge pursuant to HRS § 601-7(b) (Supp. 2006), did not grant Lacy's Motion to Suppress, ignored Lacy's alibi witness, and refused to accept his Exhibit B into evidence.

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:

(1) Lacy does not have a claim for ineffective assistance of counsel. At the outset of trial, he voluntarily relinquished his right to have an attorney. As to Lacy's trial counsel's performance during pre-trial, Lacy fails to meet his burden of demonstrating that his counsel provided ineffective assistance. Hawai'i Rules of Appellate Procedure Rule 28(b)(4); State v. Samuel, 74 Haw. 141, 158, 838 P.2d 1374, 1382 (1992); State v. Pacheco, 96 Hawai'i 83, 94, 26 P.3d 572, 583 (2001); Briones v. State, 74 Haw. 442, 462-63, 848 P.2d 966, 976 (1993).

(2) As to Lacy's remaining points of error on appeal, Lacy puts forth the following argument: "Points of appeal two through ten if handled properly by counsel would have had the case dismissed before trial. After seven plus months of no help and railroading Appellant had no choice but to have the trial in hopes that an appeal would render a proper verdict in this matter." Hawai'i Rules of Appellate Procedure Rule 28(b)(7) provides that the opening brief shall contain "[t]he argument, containing the contentions of the appellant on the points presented and the reasons therefor, with citations to authorities, statutes and parts of the record relied on. The argument may be preceded by a concise summary. Points not argued may be deemed waived." Lacy does not present any arguments for his remaining points on appeal; thus, his points are waived.

Therefore,

IT IS HEREBY ORDERED that the Judgment filed on March 8, 2006 in the District Court of the Third Circuit, Ka'u Division, is affirmed.

DATED: Honolulu, Hawai'i, June 25, 2007.

On the briefs:

George Lacy III,  
Defendant-Appellant pro se.

Glenn H. Shiigi,  
Deputy Prosecuting Attorney,  
County of Hawai'i,  
for Plaintiff-Appellee.

  
Presiding Judge

  
Associate Judge

  
Associate Judge