

NO. 27990

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
LEONARD WILLIAM WONG, Defendant-Appellant

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FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT,  
KANEHOE DIVISION  
(HPD Traffic Nos. 004351743; 004351744;  
005372947; 5376376MO; 5376377MO)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Leonard William Wong (Wong) appeals from the Order Denying Defendant's Motion to Reconsider Sentence filed on May 19, 2006 in the District Court of the First Circuit, Kaneohe Division (district court).<sup>1/</sup> On appeal, Wong raises the following points of error:

(1) "The assessment of bench warrant costs must be set aside where the district court violated Wong's due process rights by failing to provide him notice, a hearing and an opportunity to be heard on the charges."

(2) "The district court abused its discretion in assessing the bench warrant costs on Wong where he was physically unable to attend the court hearings due to his heart attack and heart surgery."

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 raised by the parties, we resolve Wong's points of error as follows:

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<sup>1/</sup> Per diem District Court Judge Clyde E. Sumida presided.

(1) The district court did not violate Wong's due process rights, as he claims, by assessing the bench warrant costs without giving him notice, a hearing, or an opportunity to be heard. Hawaii Revised Statutes § 607-8.5 (Supp. 2006) gives the district court the power to assess bench warrant costs, but prescribes no specific process for doing so.

Article I, § 5 of the Hawai'i Constitution provides in relevant part that "[n]o person shall be deprived of life, liberty or property without due process of law[.]" The Hawai'i Supreme Court has stated that "[a]t its core, procedural due process of law requires notice and an opportunity to be heard at a meaningful time and in a meaningful manner before governmental deprivation of a significant liberty interest." State v. Bani, 97 Hawai'i 285, 293, 36 P.3d 1255, 1263 (2001). The standard is a flexible one. State v. Adam, 97 Hawai'i 475, 482, 40 P.3d 877, 884 (2002). Analyzing claims under procedural due process requires a two step inquiry: first, whether the state has deprived the defendant of a property or liberty interest, and second, what specific procedures are required to satisfy due process. Bani, 97 Hawai'i at 293, 36 P.3d at 1263.

The State of Hawai'i does not dispute that the assessed \$100 in warrant costs amounts to a property interest sufficient to implicate procedural due process rights; we therefore accept, *arguendo*, that it does. The inquiry turns to the nature of the procedures provided. Here, Wong objected to the warrant costs when initially imposed. He further objected and explained his position at the district court's hearing on his motion for reconsideration. Wong's assertions that he lacked a meaningful opportunity to address the matter of the warrant costs is simply not borne out by the record.

(2) The district court did not abuse its discretion by requiring Wong to pay \$50 on each bench warrant (the maximum

amount allowed by statute). Wong's claim that his failure to appear was the result of a heart attack and subsequent heart surgery is belied by his repeated failure to appear for hearings spanning more than sixteen months. In such circumstances, we cannot say that the district court's actions "clearly exceeded the bounds of reason or disregarded rules or principles of law or practice to the substantial detriment of a party litigant."

Amfac, Inc. v. Waikiki Beachcomber Inv. Co., 74 Haw. 85, 114, 839 P.2d 10, 26 (1992).

Therefore,

The Order Denying Defendant's Motion to Reconsider Sentence filed on May 19, 2006 in the District Court of the First Circuit, Kaneohe Division, is affirmed.

DATED: Honolulu, Hawai'i, October 18, 2007.


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.

  
Presiding Judge

  
Associate Judge

  
Associate Judge