

NO. 28057

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

STATE OF HAWAI'I, Plaintiff-Appellee,
v.
KEVIN H. UYEDA, Defendant-Appellant

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

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FILED

APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT
WAILUKU DIVISION
(CASE NO. 2DTA-06-00729)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Kevin H. Uyeda (Uyeda) appeals from the June 23, 2006 Judgment entered in the District Court of the Second Circuit (district court).¹

Uyeda was charged with (1) Operating a Vehicle Under the Influence of an Intoxicant (OUI), in violation of Hawaii Revised Statutes (HRS) § 291E-61 (Supp. 2006), and (2) Inattention to Driving, in violation of HRS § 291-12 (Supp. 2006). The charges stemmed from a January 13, 2006 incident in which Uyeda drove his truck into a gasoline pump at a Chevron station. After a bench trial, the district court found Uyeda guilty of the OUI charge, but not guilty as to the Inattention to Driving charge.

On appeal, Uyeda contends that: (1) "There was insufficient evidence to prove Uyeda acted with the requisite state of mind to sustain a conviction under OUI"; (2) "There was

¹ The Honorable Reinette W. Cooper, presided.

insufficient evidence presented that Uyeda was under the influence of 'any drug' as defined by HRS § 291E-61"; and (3) the district court erred in ruling that Uyeda voluntarily gave a statement to Maui Police Officer Mary-Lee Sagawinit (Officer Sagawinit), and accordingly, the district court should have suppressed the statement.

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, we resolve Uyeda's points of error as follows:

1. There was substantial evidence that Uyeda acted with the requisite state of mind. Because the OUI statute does not specify what state of mind is required,² the State was required to prove that Uyeda acted intentionally, knowingly, or recklessly with respect to each element of the OUI offense. HRS § 702-204 (1993). The Hawai'i Supreme Court has stated that "[g]iven the difficulty of proving the requisite state of mind by direct evidence in criminal cases, proof by circumstantial evidence and reasonable inferences arising from circumstances

² HRS § 291E-61 (Supp. 2006), Operating a Vehicle Under the Influence of an Intoxicant, provides in relevant part:

(a) A person commits the offense of operating a vehicle under the influence of an intoxicant if the person operates or assumes actual physical control of a vehicle:

....

(2) While under the influence of any drug that impairs the person's ability to operate a vehicle in a careful and prudent manner;

....

surrounding the defendant's conduct is sufficient." State v. Eastman, 81 Hawai'i 131, 141, 913 P.2d 57, 67 (1996) (citation omitted).

The circumstances surrounding the incident on January 13, 2006 support the inference that Uyeda recklessly operated his vehicle even after he realized that he was impaired. Uyeda was operating a diesel truck and pulled up next to a non-diesel pump to purchase fuel. An attendant at the station observed him wait there for "awhile." Uyeda testified that he was stopped for 30-45 seconds. The attendant then observed Uyeda "dr[ive] around slowly" to another pump, where his truck climbed the curb and hit the pump. Uyeda immediately got out and approached the attendant, who observed that he was "weaving" and "[l]ooked . . . sleepy." Officer Sagawinit, one of the first two police officers to arrive on the scene, noticed that Uyeda was "droopy" and needed to lean on the truck when he was talking to her. Uyeda subsequently fell asleep in his truck and again at the police station while he was being booked.

Considering this evidence in the strongest light for the prosecution, State v. Richie, 88 Hawai'i 19, 33, 960 P.2d 1227, 1241 (1998), the evidence supports the inference that Uyeda was already impaired when he pulled up to the first pump, but that he nevertheless recklessly continued to operate the truck by attempting to move to the second pump. Since there was substantial evidence establishing that Uyeda acted with the required intent, we reject this point of error.

2. There was substantial evidence that Uyeda was under the influence of Oxycodone, a "drug" within the meaning of the OUI statute, at the time of the January 13, 2006 incident. HRS § 291E-1 (Supp. 2006); HRS § 329-16 Schedule II (Supp. 2006). On the morning of the incident, Uyeda woke up and took four Oxycodone pills before driving to the Chevron station.³ Uyeda also testified that he had taken an Oxycontin pill the previous afternoon. Uyeda testified that he began feeling "weird and perhaps short of breath" and was then overcome by a "general weakness" just prior to hitting the pump. When asked by a police officer to participate in a field sobriety test, Uyeda, who is a paramedic and a registered nurse, told the officer that "he had taken Oxycodone and didn't know if that's going to affect his performance." (Emphasis added.)

The sequence of these events (Uyeda taking Oxycodone, followed by the onset of the symptoms described by Uyeda), and Uyeda's comments to the officer support the inference that Uyeda was under the influence of Oxycodone at the time of the incident and that the Oxycodone "impair[ed] [his] ability to operate a vehicle in a careful and prudent manner." HRS § 291E-61(a)(2).

That inference can be drawn even if Uyeda was also under the influence of Oxycontin at the time of the incident. In

³ Although the district court noted that Uyeda told Officer Sagawinit that he had taken the Oxycodone 20 minutes before the incident, the transcript of Sagawinit's testimony on that point was inaudible. In any event, the record does reflect that Uyeda typically wakes up at 4 a.m., that he took the Oxycodone after waking up on the morning of January 13, 2006, and that Officer Sagawinit responded to the scene of the incident at about 5 a.m. that morning.

State v. Vliet, 91 Hawai'i 288, 293, 983 P.2d 189, 194 (1999), a DUI defendant claimed that the prosecution was required to prove that his condition on the night in question was caused exclusively by intoxicating liquor, and not by a combination of his prescription medication and alcohol. The Hawai'i Supreme Court rejected the defendant's claim, finding his position "untenable." Id. at 293, 983 P.2d at 194. "[N]othing in that statute [required] that alcohol be the sole or exclusive cause of a defendant's impairment. Rather, what is required is proof beyond a reasonable doubt that liquor contributed to the diminishment of the defendant's capacity to drive safely." Id. at 293, 983 P.2d at 194. Similarly here, the State presented sufficient evidence to support the conclusion that Uyeda was impaired by Oxycodone at the time of the incident, even if Oxycontin also contributed to his impairment.

We also reject Uyeda's suggestion that we should reverse the judgment because of the district court's comments that Uyeda was under the influence of "either" Oxycodone or Oxycontin. As this court noted in State v. Miner, 2 Haw. App. 581, 637 P.2d 782 (1981):

[T]he erroneous statements of the court in making its findings that result in a correct verdict do not constitute reversible error. In determining whether there is substantial evidence to support the verdict, the reviewing court can and must look at the entire record, and not just the oral statements made by the judge, so that even where the judge's reasoning is erroneous, if the evidence on the whole supports the finding of guilt, the judgment will be affirmed.

Id. at 583, 637 P.2d at 784 (citations omitted).

In the instant case, there was substantial evidence establishing that Uyeda was under the influence of Oxycodone, and that the Oxycodone had impaired his ability to operate his truck in a careful and prudent manner. Accordingly, we will not reverse the district court's finding of guilt.⁴

3. The district court did not err in determining that Uyeda's statements to Officer Sagawinit were voluntarily made. State v. Ah Loo, 94 Hawai'i 207, 212, 10 P.3d 728, 733 (2000) ("[W]hen an officer lawfully 'seizes' a person in order to conduct an investigative stop, the officer is not required to inform that person of his or her Miranda rights before posing questions that are reasonably designed to confirm or dispel--as briefly as possible and without any coercive connotation by either word or conduct--the officer's reasonable suspicion that criminal activity is afoot.") (citation omitted); State v. Ketchum, 97 Hawai'i 107, 126, 34 P.3d 1006, 1025 (2001); State v. Kaleohano, 99 Hawai'i 370, 377, 56 P.3d 138, 145 (2002).

Officer Sagawinit was one of the first two police officers to respond to the incident. Officer Sagawinit approached Uyeda and asked him "if he was alright and what had happened." Uyeda was not under arrest at that time.

These questions were brief and non-accusatory, and were asked at the scene rather than after Uyeda had been taken to some other location. Moreover, the circumstances indicate that at the

⁴ In view of our disposition of this issue, we do not address the State's argument that we should take judicial notice that Oxycotin contains Oxycodone.

time Sagawinit asked the questions, she had not yet developed probable cause to arrest Uyeda. See Kaleohano, 99 Hawai'i at 377, 56 P.3d at 377. Accordingly, we conclude that Sagawinit's questions did not constitute custodial interrogation, and that the district court correctly found that Uyeda's statements were voluntarily made.

Therefore,

IT IS HEREBY ORDERED that the June 23, 2006 Judgment entered in the District Court of the Second Circuit is affirmed.

DATED: Honolulu, Hawai'i, August 15, 2007.

On the briefs:

Katie L. Lambert,
Deputy Public Defender,
for Defendant-Appellant.

Gerald K. Enriques,
Deputy Prosecuting Attorney,
County of Maui,
for Plaintiff-Appellee.

Mon E. Redburn

Chief Judge

Daniel R. Foley

Associate Judge

Anna R. M. Jizina

Associate Judge