

NO. 28150

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee,  
v.

ALDEN A. PAULINE, also known as ALDEN A. PAULINE, JR.,  
Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(CR. NO. 05-1-0972)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Alden A. Pauline, also known as Alden A. Pauline, Jr., (Pauline) appeals from the Judgment of Conviction and Sentence filed on February 1, 2006 in the Circuit Court of the First Circuit (circuit court).<sup>1/</sup> On July 21, 1005, Pauline entered guilty pleas to Promoting a Dangerous Drug in the Third Degree, in violation of Hawaii Revised Statutes (HRS) § 712-1243 (Supp. 2006) (Count I); Unlawful Use of Drug Paraphernalia, in violation of HRS § 329-43.5(a) (1993) (Count II); and Driving without a License, in violation of HRS § 286-102 (Supp. 2004) (Count III).

The circuit court sentenced Pauline to five years of imprisonment with a mandatory minimum of one year and eight months as a repeat offender on Count I and five years of imprisonment on Count II, both sentences to be served concurrently. On Count III, the circuit court sentenced Pauline to the payment of a \$50 fine.

On appeal, Pauline argues that the circuit court erred by (1) denying him probation as a first-time drug offender pursuant to HRS § 706-622.5 (Supp. 2005) and (2) failing to appoint a three-member panel of examiners to evaluate him

<sup>1/</sup> The Honorable Dexter Del Rosario presided.

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STATE OF HAWAII

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pursuant to HRS § 704-404 (1993 & Supp. 2005). Pauline asserts that the latter alleged error amounted to a denial of his Due Process rights under the Fifth and Fourteenth Amendments to the United States Constitution.

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, as well as the relevant statutory and case law, we resolve Pauline's points of error as follows:

In the instant case, there is no transcript of any hearing related to the circuit court's sentencing of Pauline or any evidence of the court's rationale for sentencing Pauline as it did. Given the absence of such evidence, we have no reason to hold that the circuit court abused its discretion in its sentencing of Pauline or by denying Pauline's motion for reconsideration, see HRS § 706-622.5, and by failing to appoint a three-member panel of examiners to examine and report on Pauline's condition. See § 704-404(1) and (2).

Therefore,

IT IS HEREBY ORDERED that the Judgment of Conviction and Sentence filed on February 1, 2006 in the Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, January 18, 2008.

On the briefs:

Brian A. Duus  
for Defendant-Appellant.

James M. Anderson,  
Deputy Prosecuting Attorney,  
City and County of Honolulu,  
for Plaintiff-Appellee.

  
Presiding Judge

  
Associate Judge

  
Associate Judge