

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS OR THE PACIFIC REPORTER

NO. 28480

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
TUIKA FAUMUINA, Defendant-Appellant

NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAII

2008 APR 15 AM 9:04

FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(HPD TRAFFIC NO. 1DTI-06-131205)

SUMMARY DISPOSITION ORDER

(By: Recktenwald, C.J., Watanabe and Nakamura, JJ.)

Defendant-Appellant Tuika Faumuina (Faumuina) appeals from the Notice of Entry of Judgment and/or Order entered on February 23, 2007 in the District Court of the First Circuit (district court).¹ The district court found that Faumuina violated Hawaii Revised Statutes § 291C-102 (Supp. 2005), entitled "Noncompliance with speed limit prohibited," which is a civil traffic infraction.

On appeal, Faumuina argues that the presiding judge in the case was "very, very biased[,] " because the judge repeatedly interrupted Faumuina and directed Faumuina to "[a]sk another question."²

¹ The Honorable Blake Okimoto presided.

² Faumuina also states that "this case should have been dismissed on the grounds of 'Lack of Prosecution.'" However, Faumuina failed to comply with Hawai'i Rules of Appellate Procedure Rules 28(4)(i), 28(4)(ii), and 28(7), because he did not identify where in the record the alleged error occurred and where in the record the alleged error was objected to or brought to the attention of the district court, and additionally, because he did not present any argument regarding the alleged error. Therefore, the point is deemed waived.

"The burden is upon appellant in an appeal to show error by reference to matters in the record, and he or she has the responsibility of providing an adequate transcript."

Bettencourt v. Bettencourt, 80 Hawai'i 225, 230, 909 P.2d 553, 558 (1995) (internal quotation marks and brackets omitted); Hawai'i Rules of Appellate Procedure Rule 10.

Faumuina failed to include a copy of the transcript of the proceeding in the record on appeal. Without a transcript, this court is unable to determine from the record whether the judge was biased. Cf. State v. Hoang, 93 Hawai'i 333, 335, 3 P.3d 499, 501 (2000) (record without transcript of defendant's arraignment was insufficient to establish that the State had failed to properly charge the defendant). Faumuina has accordingly failed to establish any error. Therefore,

IT IS HEREBY ORDERED that the Notice of Entry of Judgment and/or Order entered on February 23, 2007 in the District Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, April 15, 2008.

On the briefs:

Tuika M. Faumuina,
Pro Se Defendant-Appellant

Anne K. Clarkin,
Deputy Prosecuting Attorney,
City & County of Honolulu
for Plaintiff-Appellee.



Chief Judge



Associate Judge



Associate Judge