

NO. 28538

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee,
v.
JOSEPH EUGENE RIVEIRA, Defendant-Appellant

NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAII

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FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
Ewa Division
(HPD Traffic No. 1DTC-06-001736)

SUMMARY DISPOSITION ORDER

(By: Recktenwald, Chief Judge, Watanabe, and Nakamura, JJ.)

Defendant-Appellant Joseph E. Riveira (Riveira) appeals from the Judgment filed on May 1, 2007, in the District Court of the First Circuit (district court).¹ After a bench trial, Riveira was found guilty of reckless driving, in violation of Hawaii Revised Statutes (HRS) § 291-2 (2007).² The district court sentenced Riveira to pay a \$150 fine, a \$30 criminal injuries compensation fund assessment, and a \$7 driver's education fee.

On appeal, Riveira contends that there was insufficient evidence to convict him of reckless driving. In particular, Riveira contends that there was insufficient evidence to prove that: 1) he acted with a reckless state of mind and 2) his

¹ The Honorable Alvin K. Nishimura presided.

² Hawaii Revised Statutes (HRS) § 291-2 (2007) provides:

Whoever operates any vehicle or rides any animal recklessly in disregard of the safety of persons or property is guilty of reckless driving of vehicle or reckless riding of an animal, as appropriate, and shall be fined not more than \$1,000 or imprisoned not more than thirty days, or both.

conduct was a gross deviation from the standard of conduct that a law-abiding person would observe in the same situation.

Upon careful review of the record and the briefs submitted by the parties, we disagree with Riveira and conclude that there was sufficient evidence to support his conviction. Viewed in the light most favorable to the prosecution, State v. Richie, 88 Hawai'i 19, 33, 960 P.2d 1227, 1241 (1998), the evidence showed that late at night, Riviera revved his engine, causing his tires to screech as he drove by Officer Bryant Ho at a high rate of speed; that Riviera went around one vehicle and passed another; and that Riviera's car was traveling at approximately 105 miles per hour in an area where the speed limit was 55 miles per hour. There was substantial evidence to support Riviera's reckless driving conviction. See State v. Agard, 113 Hawai'i 321, 151 P.3d 802 (2007).

Accordingly, we affirm the May 1, 2007, Judgment of the district court.

DATED: Honolulu, Hawai'i, June 9, 2008.

On the briefs:

Robert F. Miller
for Defendant-Appellant

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



Chief Judge



Associate Judge



Associate Judge