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CLERK, APPELLATE COURTS
STATE OF HAWAI'I
FILED

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee, v.
LEMAR P. SANDIFORD, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
KANEOHE DIVISION
(HPD Traffic No. 1DTC-07-016483)

SUMMARY DISPOSITION ORDER
(By: Recktenwald, C.J., Fujise and Leonard, JJ.)

Defendant-Appellant Lemar P. Sandiford (Sandiford) appeals the Notice of Entry of Judgment and/or Order and Plea/Judgment, filed on April 27, 2007 in the District Court of the First Circuit, Kaneohe Division (district court).[1]

Sandiford was convicted of Excessive Speeding, in violation of Hawaii Revised Statutes (HRS) § 291C-105(a)(1) (Supp. 2007).

On appeal, Sandiford contends inadmissible evidence was used to convict him and there was no substantial evidence to show that he acted with a reckless state of mind.

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 Sandiford's points of error as follows:

Officer Vernon Kleinschmidt (Officer Kleinschmidt) testified that he was certified to operate the LTI 20/20 laser gun and on the date of the offense he calibrated the laser gun by performing the required tests, the self-test, scope alignment test, and the delta distance test and that the device was working properly. This testing was done approximately 30 minutes before he measured the speed of Sandiford's vehicle. Based on this

[1] The Honorable Lono J. Lee presided.

record, it was not an abuse of discretion to admit the laser gun's reading of Sandiford's speed into evidence. State v. Stoa, 112 Hawai'i 260, 265, 268, 145 P.3d 803, 808, 811 (App. 2006).

Officer Kleinschmidt stated that there were seven speed limit signs setting the speed limit as 25 miles per hour on Kailua Road between Kainehe Road/Hamakua Drive and Hanale Place. Officer Kleinschmidt stated that the laser gun reading showed that Sandiford was traveling 57 miles per hour. Officer Kleinschmidt stated that the location where Sandiford was traveling 57 miles per hour was a 25 mile per hour zone.

The district court believed Officer Kleinschmidt's testimony and did not believe Sandiford's testimony that Sandiford was traveling 35-45 miles per hour on Kailua Road somewhere after Hanale Place. Sandiford consciously disregarded a substantial and unjustifiable risk of speeding 30 miles per hour over the speed limit after passing seven 25 mph speed limit signs. Therefore, there was sufficient evidence to convict Sandiford of excessive speeding.

Therefore,

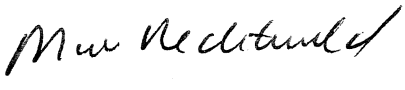
The Notice of Entry of Judgment and/or Order and Plea/Judgment, filed on April 27, 2007 in the District Court of the First Circuit, Kaneohe Division, is affirmed.

DATED: Honolulu, Hawai'i, June 24, 2008.

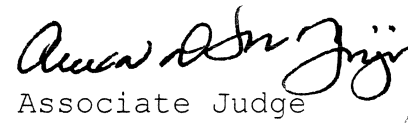
On the briefs:

Jon N. Ikenaga,
Deputy Public Defender,
for Defendant-Appellant.

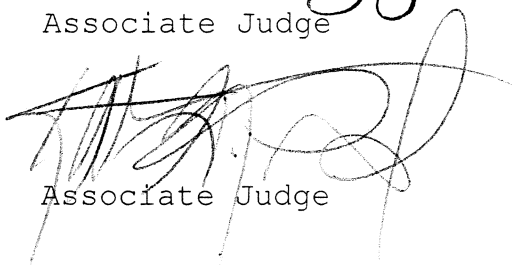
Brian R. Vincent,
Deputy Prosecuting Attorney,
City & County of Honolulu,
for Plaintiff-Appellee.



Chief Judge



Associate Judge



Associate Judge