

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS OR THE PACIFIC REPORTER

NO. 28794

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

STATE OF HAWAI'I, Plaintiff-Appellee,
v.
VICTOR S. NAKATSU, Defendant-Appellant

EM. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2009 AUG 27 AM 7:50

FILED

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT
PUNA DIVISION
(CASE NOS. 3DTC-06-003329, 3DTC-06-31281, and 3DTA-06-01941)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Victor Samuel Nakatsu, aka Victor S. Nakatsu, and Victor Nakatsu, appeals from five September 7, 2007 judgments entered in the District Court of the Third Circuit, Puna Division (district court),¹ in Case Nos. 3DTC-06-003329, 3DTC-06-31281, and 3DTA-06-01941.

On September 7, 2007, Nakatsu was convicted of two counts of Driving Without a License, in violation of Hawaii Revised Statutes (HRS) § 286-102(a) (2007), two counts of No No-Fault Insurance, in violation of HRS § 431:10C-104 (2007), and Willful Failure to Appear in Answer to Citation, in violation of HRS § 803-6(e) (2007), after pleading no contest to the charges.

On appeal,² Nakatsu contends that:

(1) He is a "subject of the King of the Hawaiian Islands, is without knowledge as to how, this court or any other court operating by, as, under, etc, State of Hawaii is operating in the Hawaiian Kingdom." We construe this to be an argument that the district court lacked jurisdiction over Nakatsu.

¹ The Honorable Harry P.N. Freitas presided.

² Nakatsu's opening brief fails to comply in many respects with Hawai'i Rules of Appellate Procedure (HRAP) Rule 28, and is not signed, in violation of HRAP Rule 32(c). Nevertheless, we will attempt to address Nakatsu's arguments on the merits.

(2) Nakatsu also contends that his court-appointed attorney, Carrie Yonemori, Esq., threatened him to enter into a plea agreement by telling him that "there were four police officers waiting to arrest [him] if [he] did not accept the deal . . . [he] accepted the deal only because [he] did not want to be arrested." Nakatsu "move[s] the court to grant [him] a new trial," to remove Yonemori from representing him, to sanction Yonemori for coercing him into accepting the deal, and to "make [J]udge Freitas recuse himself from ruling on this motion" Nakatsu made similar requests in the district court in a Motion for New Trial filed on September 13, 2007 (New Trial Motion).

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 Nakatsu's points of error as follows:

(1) Nakatsu's claim that the district court lacked jurisdiction over him because he is a subject of the King of the Hawaiian Islands is without merit. State v. Lee, 90 Hawai'i 130, 976 P.2d 444 (1999); State v. Lorenzo, 77 Hawai'i 219, 883 P.2d 641 (App. 1994).

(2) We remand for further proceedings with regard to Nakatsu's New Trial Motion, which we construe as a motion to withdraw his no-contest pleas. See Hawai'i Rules of Penal Procedure Rule 32(d). That motion was pending in the district court when Nakatsu filed a Notice of Appeal on October 9, 2007. Although the State filed a response to the motion on October 15, 2007, the record does not contain any written order resolving the motion.³ Thus, there is no ruling by the district court for us to review, and the current record is, in any event, inadequate for us to determine the merits of Nakatsu's request to withdraw his no-contest pleas and the other related claims he raised in

³ The State indicates in its answering brief that "the District Court did not hear the Defendant's Motion for a New Trial as it no longer retained jurisdiction to hear the matter due to Defendant's appeal."

the New Trial Motion.⁴

Accordingly, we remand for further proceedings on the New Trial Motion. If the district court grants the New Trial Motion and allows Nakatsu to withdraw his pleas, then the district court should vacate the judgments and allow Nakatsu to plead anew. If the district court denies the New Trial Motion and does not allow Nakatsu to withdraw his pleas, then the judgments will stand, and Nakatsu may, if he so chooses, appeal from the denial of that motion.

Therefore,

IT IS HEREBY ORDERED that the five September 7, 2007 judgments entered in the District Court of the Third Circuit, Puna Division, in Case Nos. 3DTC-06-003329, 3DTC-06-31281, and 3DTA-06-01941 are affirmed, and this case is remanded for further proceedings consistent with this order.

DATED: Honolulu, Hawai'i, August 27, 2008.

On the briefs:

Victor S. Nakatsu
Pro Se Defendant-Appellant
on the opening brief

Vaughan S. Winborne, Jr.
for Defendant-Appellant
on the reply brief

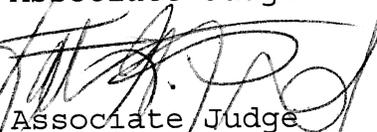
Dakota K. Frenz,
Deputy Prosecuting Attorney,
County of Hawaii,
for Plaintiff-Appellee.



Chief Judge



Associate Judge



Associate Judge

⁴ We note, for example, that the record on appeal does not contain the transcript of the September 7, 2007 proceeding in which Nakatsu entered his no-contest pleas.