

NO. 28871

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
RODNEY RELLIN, Defendant-Appellant

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FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 07-1-0482)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Rodney Rellin (Rellin) appeals from the Judgment of Conviction and Sentence filed on October 31, 2007 in the Circuit Court of the First Circuit (circuit court).¹

A jury convicted Rellin of Unauthorized Control of Propelled Vehicle, in violation of Hawaii Revised Statutes (HRS) § 708-836 (Supp. 2007).

On appeal, Rellin contends the circuit court erred by refusing to instruct the jury on his mistake-of-fact defense. The State, citing State v. Mainaupo, 117 Hawai'i 235, 178 P.3d 1 (2008), admits that it "cannot in good faith argue the [circuit] court did not err in refusing to include a mistake-of-fact instruction in the charge to the jury."

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 Rellin's point of error as follows:

The testimony supports a mistake-of-fact jury instruction because Rellin testified that an unknown man gave him signed papers for the vehicle to satisfy his debt to Rellin. Hence, Rellin's claim that he was authorized to operate the vehicle by the registered owner could potentially negate the

¹ The Honorable Steven S. Alm presided.

state of mind required to convict him of Unauthorized Control of a Propelled Vehicle. The State agrees that the circuit court's error in refusing to give a mistake-of-fact jury instruction was not harmless.

Because there was sufficient evidence to convict Rellin of Unauthorized Control of a Propelled Vehicle, this case will be remanded for a new trial.

Therefore,

The Judgment of Conviction and Sentence filed on October 31, 2007 in the Circuit Court of the First Circuit is vacated, and this case is remanded for a new trial.

DATED: Honolulu, Hawai'i, August 8, 2008.

On the briefs:

Phyllis J. Hironaka,
Deputy Public Defender,
for Defendant-Appellant.

Donn Fudo,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.



Presiding Judge



Associate Judge



Associate Judge