

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 29046

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
TINA KA RICCITIELLO, Defendant-Appellant

K. HAMAKADO  
CLERK, APPELLATE COURTS  
STATE OF HAWAI'I

2009 MAR 13 AM 7:52

FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
EWA DIVISION  
(HPD Traffic No. 1DTC-07-046083)

SUMMARY DISPOSITION ORDER

(By: Nakamura, Presiding Judge, Fujise and Leonard, JJ.)

Defendant-Appellant Tina Ka Riccitiello (Riccitiello) appeals the Judgment of Conviction, entered on February 4, 2008, in the District Court of the First Circuit, Ewa Division (district court).<sup>1</sup>

Riccitiello was convicted of Excessive Speeding, in violation of Hawaii Revised Statutes (HRS) § 291C-105(a)(1) and/or (a)(2) (2007).

On appeal, Riccitiello contends that the district court erred by admitting evidence of the laser speed gun reading because inadequate foundation was established (1) regarding the accuracy of a laser gun and (2) that Honolulu Police Officer Jeremy Franks (Officer Franks) was qualified to operate the laser gun.

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 Riccitiello's point of error as follows:

Officer Franks provided the necessary foundation to testify about the speed reading of the laser gun because he testified that he (1) was certified to operate the laser gun after four hours of training, (2) performed the four

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<sup>1</sup> The Honorable Christopher P. McKenzie presided.

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functionality tests as he was trained to do, and (3) he observed that the results of the test indicated that the laser gun was functioning properly. State v. Stoa, 112 Hawai'i 260, 261-62, 268, 145 P.3d 803, 803-05, 811 (App. 2006). Therefore, the district court did not err by admitting Officer Franks's testimony regarding the speed reading from the laser gun because proper foundation was provided regarding the laser gun's accuracy and Officer Franks's training to operate the laser gun.

Therefore,

The Judgment of Conviction, entered on February 4, 2008, in the District Court of the First Circuit, Ewa Division, is affirmed.

DATED: Honolulu, Hawai'i, March 13, 2009.

On the briefs:

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

  
Presiding Judge

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

  
Associate Judge  
  
Associate Judge