

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS OR THE PACIFIC REPORTER

NO. 29100

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

STATE OF HAWAI'I, Plaintiff-Appellee,
v.
KESEAN JOHNSON, Defendant-Appellant

K. HAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2009 MAR 31 AM 8:06

FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
'EWA DIVISION
(HPD TRAFFIC NO. 1DTC-07-060926)

SUMMARY DISPOSITION ORDER

(By: Recktenwald, C.J., Watanabe and Foley, JJ.)

Defendant-Appellant Kesean Johnson appeals from the judgment entered on March 12, 2008,¹ in the District Court of the First Circuit, 'Ewa Division (district court).²

Johnson was convicted of Excessive Speeding, in violation of Hawaii Revised Statutes § 291C-105(a)(1)(a)(2) (Supp. 2007).

On appeal, Johnson contends that "[t]he district court erred in admitting the evidence of the laser speed gun reading where the State failed to establish the requisite foundation, i.e., the proven accuracy of the particular laser gun used."

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 Johnson's point of error as follows:

Honolulu police officer Clarence Clites provided the necessary foundation for his testimony about the speed reading of the laser gun because he stated that he performed four functionality tests, the results of the tests indicated that the laser gun was functioning properly, and he was certified to operate the laser gun after four hours of training. State v. Stoa, 112 Hawai'i 260, 262, 268, 145 P.3d 803, 805, 811 (App.

¹ The original judgment was entered on March 12, 2008, a second amended judgment was filed on February 23, 2009, and a third amended judgment was filed on February 24, 2009. Both of the amended judgments were entered nunc pro tunc to March 12, 2008.

² The Honorable Paula Devens presided.

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2006). Therefore, the district court did not err by admitting Officer Clites's testimony regarding the speed reading from the laser gun because proper foundation was provided regarding the laser gun's accuracy and Officer Clites's training to operate the laser gun.

Therefore,

IT IS HEREBY ORDERED that the judgment entered on March 12, 2008 in the District Court of the First Circuit, 'Ewa Division, is affirmed.

DATED: Honolulu, Hawai'i, March 31, 2009.

On the briefs:

James S. Tabe,
Deputy Public Defender,
for Defendant-Appellant.

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

Chief Judge

Associate Judge

Associate Judge