

NO. 29251

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
JOSE GONZALES, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
KĀNE'ŌHE DIVISION
(HPD Traffic No. 1DTC-08-031698)

2009 APR 27 AM 8:53
James K. Kuroki
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STATE OF HAWAI'I

FILED

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Jose Gonzales (Gonzales) appeals the Judgment, entered on June 13, 2008, in the District Court of the First Circuit, Kāne'ōhe Division (district court).¹

Gonzales was convicted of Racing on Highways, in violation of Hawaii Revised Statutes (HRS) § 291C-103 (2007).

On appeal, Gonzales contends that there was insufficient evidence to convict him.

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 Gonzales's point of error as follows:

Officer Mark Randall (Officer Randall) testified that he heard engines revving for a few seconds prior to seeing Gonzales's red Camaro appear at the crest of the highway in the left lane. After ascertaining that Gonzales was speeding, Officer Randall flashed his blue and white lights to initiate a stop of Gonzales's vehicle and then observed a silver Cobalt following closely behind Gonzales's vehicle make a lane change from the left lane into the right lane. Officer Randall believed the driver of the silver Cobalt was trying to keep up with Gonzales and when Gonzales slowed in response to Officer

¹ The Honorable Paula Devens presided.

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Randall's flashing lights, the silver Cobalt was forced to change lanes. Gonzales admitted that he was traveling seventy-seven-miles-per-hour in a fifty-five-miles-per-hour zone. Gonzales also admitted that he was professionally acquainted with the driver of the silver Cobalt. The district court found Officer Randall to be credible.

"Given the difficulty of proving the requisite state of mind by direct evidence in criminal cases, proof by circumstantial evidence and reasonable inferences arising from circumstances surrounding the defendant's conduct is sufficient." State v. Agard, 113 Hawai'i 321, 324, 151 P.3d 802, 805 (2007) (quoting State v. Eastman, 81 Hawai'i 131, 141, 913 P.2d 57, 67 (1996) (internal quotation marks omitted)). Taking the evidence in the light most favorable to the State, State v. Matavale, 115 Hawai'i 149, 157, 166 P.3d 322, 330 (2007), there was sufficient evidence that Gonzales was driving his vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, or participating in any such race, competition, contest, or test, in violation of HRS § 291C-103.

Therefore,

The Judgment, entered on June 13, 2008, in the District Court of the First Circuit, Kāne'ōhe Division, is affirmed.

DATED: Honolulu, Hawai'i, April 27, 2009.

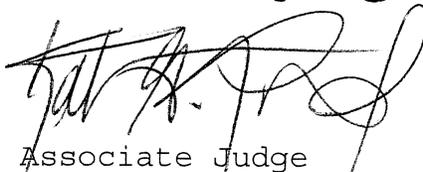
On the briefs:

Setsuko Regina Gormley,
Deputy Public Defender,
for Defendant-Appellant.


Presiding Judge

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


Associate Judge


Associate Judge