

NO. 29460

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
DUSTIN K.P. KIMURA, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(HPD Traffic No. 1DTC-08-024208)

SUMMARY DISPOSITION ORDER

(By: Nakamura, C.J., Foley and Fujise, JJ.)

Defendant-Appellant Dustin K.P. Kimura (Kimura) appeals the Judgment, entered on October 10, 2008, in the District Court of the First Circuit, Kāneʻohe Division (district court).¹

Kimura pled guilty to and was convicted of Excessive Speeding, in violation of Hawaii Revised Statutes (HRS) § 291C-105(a) (2) (2007).

On appeal, Kimura contends that the district court erred by imposing a sentence pursuant to HRS § 286-125 (2007) and not HRS § 291C-105. The State concedes that Kimura's sentence must be vacated pursuant to State v. Nakamura, 121 Hawai'i 117, 214 P.3d 1107 (App. 2009).

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 Kimura's point of error as follows:

"[T]he plain language of the statute requires that the sentencing court impose the list of sanctions as specified in HRS

¹ The Honorable T. David Woo presided.

§ 291C-1059(c) [.] " Nakamura, 121 Hawai'i at 119, 214 P.3d at 1109.

Therefore,

IT IS HEREBY ORDERED THAT the sentence imposed in the Judgment, entered on October 10, 2008, in the District Court of the First Circuit, Kāne'ohe Division, is vacated and the case is remanded for resentencing.

DATED: Honolulu, Hawai'i, November 10, 2009.

On the briefs:

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

Chief Judge

Stephen K. Tsushima,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.

Associate Judge

Associate Judge