

NO. 29507

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
JOSEPH G. RICKER, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
HONOLULU DIVISION  
(HPD Traffic No. 1DTC-08-016377)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Joseph G. Ricker (Ricker) appeals from the Judgment filed on November 10, 2008 in the District Court of the First Circuit, Honolulu Division (district court).<sup>1</sup>

The district court convicted Ricker of Excessive Speeding, in violation of HRS § 291C-105(a)(1) (2007 Repl.).

On appeal, Ricker contends the District Court (1) abused its discretion by denying his September 23, 2008 motion to compel discovery, (2) erred in convicting him because the State of Hawai'i (State) failed to introduce sufficient evidence to establish that the laser gun was accurate, and (3) erred by unduly restricting Ricker's cross-examination of Officer Rosalez, thereby violating Ricker's right to confrontation.

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, as well as the relevant statutory and case law, we resolve Ricker's points of error as follows:

Officer Rosalez did not testify that the laser gun was tested in accordance with the manufacturer's specifications.

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<sup>1</sup> The Honorable Hilary Gangnes presided.

Therefore, the State failed to adduce sufficient evidence regarding the accuracy of the laser gun and the reading from the laser gun should not have been admitted into evidence. State v. Assaye, 121 Hawai'i 204, 209-15, 216 P.3d 1227, 1232-38 (2009). Without evidence regarding the accuracy of the laser gun used, there is insufficient evidence to convict Ricker of Excessive Speeding. We need not address Ricker's other points of error.

Therefore,

IT IS HEREBY ORDERED that the Judgment filed on November 10, 2008 in the District Court of the First Circuit, Honolulu Division, is reversed.

DATED: Honolulu, Hawai'i, December 14, 2009.

On the briefs:

Taryn R. Tomasa,  
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