

NO. 29554

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
DENE G. HOM, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
HONOLULU DIVISION  
(HPD TRAFFIC NO. 1DTC-08-016353)

EMILIANO  
JEROME  
STATE OF HAWAII  
APPELLATE COURTS

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FILED

SUMMARY DISPOSITION ORDER

(By: Nakamura, Chief Judge, Watanabe and Leonard, JJ.)

Defendant-Appellant Dene G. Hom (**Hom**) appeals the judgment entered on December 1, 2008, by the District Court of the First Circuit, Honolulu Division (**District Court**).<sup>1/</sup> Hom was convicted of Excessive Speeding, in violation of HRS § 291C-105(a)(1) (Supp. 2007).

On appeal, Hom contends: (1) the District Court erred by denying his Motion to Dismiss the charge; (2) the District Court erred when it ruled that sufficient foundation had been laid for the laser-reading evidence; (3) the District Court erred by denying a motion to strike Officer Rosales's testimony because the officer had no present recollection of the event; and (4) the District Court erred by convicting him because in the absence of testimony about the margin of error in the laser-gun reading, there was insufficient evidence to convict him.

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<sup>1/</sup> The Honorable Clyde Sumida presided.

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 Hom's points of error as follows:

The State failed to adduce evidence that the laser gun was tested according to the manufacturer's recommended procedures in order to establish sufficient foundation for the laser gun reading. State v. Assaye, No. 29078, 2009 WL 3112426, at 6-11 (Hawai'i Sept. 30, 2009). Without the laser gun reading, there was insufficient evidence to convict Hom of Excessive Speeding. We need not address Hom's other points of error.

For this reason, the District Court's December 1, 2008 judgment is reversed.

DATED: Honolulu, Hawai'i, October 21, 2009.

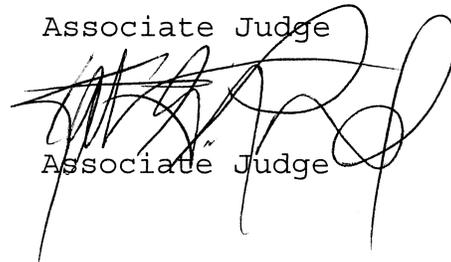
On the briefs:

Timothy I. Mac Master  
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Brian R. Vincent  
Deputy Prosecuting Attorney  
for Plaintiff-Appellee

  
Chief Judge

  
Associate Judge

  
Associate Judge