NO. 29620

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAIʻI

STATE OF HAWAIʻI, Plaintiff-Appellee, v.
DOMINIC LOUIS KEOLA GOMES, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(HPD TRAFFIC NO. 1DTC-08-044316)

SUMMARY DISPOSITION ORDER
(By: Nakamura, C.J., Watanabe and Leonard, JJ.)

Defendant-Appellant Dominic Louis Keola Gomes (**Gomes**) appeals the amended judgment entered on January 6, 2009 in the District Court of the First Circuit, Honolulu Division (**District Court**).[1] Gomes was convicted of Excessive Speeding, in violation of Hawaii Revised Statutes (**HRS**) § 291C-105(a)(1) (Supp. 2007).

On appeal, Gomes contends that: (1) the District Court abused its discretion by denying his Motion to Compel; and (2) the District Court erred by convicting him because the State failed to introduce sufficient evidence to establish the accuracy of the laser gun used in the case.

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 Gomes'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 (Hawaiʻi Sept. 30, 2009). Without the laser gun reading, there

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[1] The Honorable Randal Shintani presided.

was insufficient evidence to convict Gomes of Excessive Speeding.
We need not address Gomes's other point of error.

   For this reason, the District Court's January 6, 2009
judgment is reversed.

   DATED: Honolulu, Hawaiʻi, November 12, 2009.

On the briefs:

                Chief Judge

Setsuko Regina Gormley
Deputy Public Defender
for Defendant-Appellant

                Associate Judge

Anne K. Clarkin
Deputy Prosecuting Attorney
for Plaintiff-Appellee

                Associate Judge