



Supreme Court — THE JUDICIARY • STATE OF HAWAII

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Simeon R. Acoba, Jr.
ASSOCIATE JUSTICE

May 1, 2006

Thomason/West
Editorial Department - D3
610 Opperman Drive
P. O. Box 64526
St. Paul, MN 55164-0526

Re: No. 27108, Brune v. Admin. Director
110 Hawai'i 172 (2006)

Gentlemen:

Please make the correction to the opinion in the above case which was filed in the Hawai'i Supreme Court on March 16, 2006 (parallel cite - 130 P.3d 1037), as noted on the attached page.

If you have any questions, please do not hesitate to contact me at (808) 539-4725.

Thank you for your help.

Yours truly,

A handwritten signature in cursive script that reads "L Ching".

Lorna E. Ching
Judicial Assistant

Attach. (p. 172)

130 P.3d 1037

Albino J. BRUNE, III, Petitioner-
Appellant,

v.

ADMINISTRATIVE DIRECTOR OF the
COURTS, STATE OF HAWAII,
Respondent-Appellee.

No. 27108.

Supreme Court of Hawaii.

March 16, 2006.

Background: Motorist who was a Navy lieutenant petitioned for judicial review of the administrative revocation of his driver's license, after he was arrested by a civilian police officer for the Navy on a Naval reservation and found to be driving while under the influence of an intoxicant (DUI). The District Court, First District, No. JR 04-0033, affirmed the decision of the hearing officer. Motorist appealed.

Holding: The Supreme Court, Acoba, J., held that completion of Administrative Driver's License Revocation Officer (ADLRO) forms by motorist and transmittal of those forms by civilian police officer for the Navy to ADLRO did not violate Posse Comitatus Act (PCA).

Affirmed.

1. Automobiles ⇌144.2(3)

Review of a decision made by a court upon its review of an administrative decision in a driver's license revocation case is a secondary appeal, and the standard of review is one in which the appellate court must determine whether the court under review was right or wrong in its decision.

2. Automobiles ⇌144.2(1)

Notice of administrative revocation provided by police to motorist arrested for operating a vehicle under the influence of an intoxicant (OUI) satisfied statutory require-

1. The Posse Comitatus Act (PCA) is codified at 18 U.S.C. § 1385. It provides that:

Whoever, except in cases and under circumstances expressly authorized by the Constitution or Act of Congress, willfully uses any part

ment of explaining in clear language the difference between an administrative license revocation and a criminal suspension or revocation. HRS § 291E-34(a)(2).

3. Armed Services ⇌3

Completion of certain Administrative Driver's License Revocation Officer (ADLRO) forms by motorist who was a Navy lieutenant, and transmittal of those forms by a civilian police officer for the Navy to the ADLRO based on the conclusion that motorist appeared to be driving while under the influence of an intoxicant (DUI), did not violate the Posse Comitatus Act (PCA); enforcement of Hawaii state law against military personnel on a military base did not infringe on civil authority since a primary military purpose for the completion and transmittal was established, inasmuch as enforcement of traffic laws and investigation of DUI cases could be deemed to be in the normal course of military operations, and, restrictions of the PCA did not apply to the instant case as motorist was a member of the military and was arrested on a Naval reservation. 10 U.S.C.A. § 371; 18 U.S.C.A. § 1385.

Earle A. Partington, Honolulu, on the briefs, for petitioner-appellant.

Girard D. Lau, Deputy Attorney General, State of Hawaii, on the briefs, for respondent-appellee.

MOON, C.J., LEVINSON, NAKAYAMA, ACOBA, and DUFFY, JJ.

Opinion of the Court by ACOBA, J.

We hold that the completion of certain Administrative Driver's License Revocation Office (ADLRO) forms by Petitioner-Appellant U.S. Navy Lieutenant Albin J. Brune, III (Appellant) and subsequent transmittal of the forms by a civilian police officer for the Department of the U.S. Navy (the Navy) to the ADLRO do not violate the Posse Comitatus Act (the PCA)¹ inasmuch as (1) the

of the Army or the Air Force as a posse comitatus or otherwise to execute the laws shall be fined under this title or imprisoned not more than two years, or both.