

NO. 30719

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

STATE OF HAWAI'I, Plaintiff-Appellee,
v.
ALEJANDRO PADILLA, Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
WAI'ANAЕ DIVISION
(CASE NO. 1DTA-10-00147)

SUMMARY DISPOSITION ORDER

(By: Nakamura, C.J., and Leonard, J.,
with Ginoza, J., concurring separately)

Defendant-Appellant Alejandro Padilla (Padilla) appeals from the Judgment filed on July 21, 2010, in the District Court of the First Circuit (District Court).¹ Padilla was charged by complaint with operating a vehicle under the influence of an intoxicant (OVUII), in violation of Hawaii Revised Statutes (HRS) § 291E-61(a)(1) and/or (a)(3) (Supp. 2009), as a first-time offender under HRS § 291E-61(b)(1) (Supp. 2009) and/or as a highly intoxicated driver under HRS § 291E-61(b)(2) (Supp. 2009).

Prior to trial, Padilla filed a Motion to Dismiss Re: Failure to Allege an Essential Fact (Motion to Dismiss), seeking to dismiss the complaint on the ground that it was deficient for failure to allege a mens rea. The District Court denied the

¹ The Honorable Christopher McKenzie presided.

motion to dismiss. Padilla was tried, found guilty, and sentenced.

On appeal, Padilla argues that the District Court erred in denying his motion to dismiss because he claims the complaint was defective for failing to allege that he committed the OVUII offense intentionally, knowingly, or recklessly. We conclude that the complaint was not required to allege a mens rea in order to be sufficient, and we reject Padilla's challenge to the sufficiency of the complaint. State v. Nesmith, No. CAAP-10-0000072 (Hawai'i App. June 22, 2011) (holding that a complaint which did not allege a mens rea was sufficient to charge the defendant with OVUII in violation of HRS § 291E-61(a)(1) and/or (a)(3), as a first-time offender under HRS § 291E-61(b)(1)). Accordingly, we affirm the July 21, 2010, Judgment of the District Court.

DATED: Honolulu, Hawai'i, June 29, 2011.

On the briefs:

Timothy I. Mac Master
for Defendant-Appellant

Chief Judge

Delanie D. Prescott-Tate
Deputy Prosecuting Attorney
City and County of Honolulu
for Plaintiff-Appellee

Associate Judge