

NO. 30720

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

STATE OF HAWAI'I, Plaintiff-Appellee,
v.
REW T. SHINSATO, Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
EWA DIVISION
(CASE NO. 1DTA-10-00597)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Rew T. Shinsato (Shinsato) appeals from the Judgment filed on June 22, 2010, in the District Court of the First Circuit (District Court).¹ Shinsato 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). Prior to trial, Shinsato orally moved to dismiss the complaint as "defective because it does not plead the required mens rea element for the offense." The District Court denied the motion to dismiss. After a bench trial on stipulated evidence, the District Court found Shinsato "guilty as charged" and entered its Judgment.

¹ The Honorable David W. Lo presided.

On appeal, Shinsato 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 Shinsato'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 June 22, 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

Anne K. Clarkin
Deputy Prosecuting Attorney
City and County of Honolulu
for Plaintiff-Appellee

Associate Judge