

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 29266

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'ISTATE OF HAWAI'I, Plaintiff-Appellee, v.
CHARLES J. WAHLQUIST, Defendant-AppellantK. HAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

2010 MAY 26 AM 7:49

FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
EWA DIVISION
(HPD Traffic No. 1DTC-08-000024)SUMMARY DISPOSITION ORDER

(By: Fujise, Presiding Judge, Reifurth and Ginoza, JJ.)

Defendant-Appellant Charles J. Wahlquist (Wahlquist) appeals from the judgment entered on June 24, 2008 in the District Court of the First Circuit, Ewa Division (District Court).¹ Wahlquist was convicted of Excessive Speeding in violation of HRS §291C-105(a)(1) and HRS §291C-105(a)(2).

On appeal, Wahlquist contends, *inter alia*, that the District Court erred in overruling his objection that there was insufficient foundation to admit testimony regarding the laser speed gun reading. Wahlquist argues that "there was insufficient foundation to establish that this particular electronic measuring device was: (1) properly maintained; (2) properly calibrated; and (3) producing reliable speed readings."

Upon a careful review of the record and the briefs submitted, and upon due consideration of the arguments made and issues raised by the parties, we hold that 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 to admit the laser gun reading. State v. Assaye, 121 Hawai'i 204, 210-14, 216 P.3d 1227, 1233-37 (2009).

¹ The Honorable Peter Stone presided.

Other than the laser gun reading, no other evidence was presented by the State to establish a speed to convict Wahlquist of Excessive Speeding. The State thus failed to meet its burden of proof to convict Wahlquist of Excessive Speeding.

Given the above, we need not address the other points of error raised by Wahlquist on appeal.

For the reasons set forth above, the District Court's judgment entered on June 24, 2008 is reversed.

DATED: Honolulu, Hawai'i, May 26, 2010.


On the briefs:

Timothy I. MacMaster
for Defendant-Appellant

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


Presiding Judge


Associate Judge


Associate Judge