NO. 29823

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAIʻI

STATE OF HAWAIʻI, Plaintiff-Appellee, v.
JOHN D. EDDINGTON, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(Case No. 1DTC-08-045099)

SUMMARY DISPOSITION ORDER
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Defendant-Appellant John D. Eddington (Eddington) appeals from the Judgment filed on April 17, 2009 in the District Court of the First Circuit, Honolulu Division (district court).[1] The district court found Eddington guilty of Excessive Speeding, in violation of Hawaii Revised Statutes § 291C-105(a)(1) (2007 Repl. & Supp. 2009).

On August 8, 2008, Officer Maeshiro cited Eddington for driving 68 miles per hour on a public roadway with a speed limit of 35 miles per hour. Officer Maeshiro determined Eddington's speed by using the LTI 20/20 hand-held laser speed detection unit (laser gun).

On February 27, 2009, Eddington filed Defendant's Motions [sic] in Limine. Eddington requested an order requiring the State of Hawaiʻi (State) to show among other things that Officer Maeshiro had been properly trained and that "the pre-operational checking procedures recommended by the manufacturer of the laser speed detector be shown to have been made by the law enforcement officer . . . ." The district court denied Defendant's Motions in Limine on April 17, 2009.

On appeal, Eddington argues that (1) the district court erred in denying his Motion to Compel Discovery or in the Alternative, Motion to Dismiss for Violation of Rule 16(b) and

[1] The Honorable Faye Koyanagi presided.

(c) of the Hawaiʻi Rules of Penal Procedure; (2) the district court erred in admitting into evidence the results of the laser gun without sufficient foundation; and (3) without the evidence of the laser gun results, there was insufficient evidence to convict Eddington. The State concedes that it failed to lay sufficient foundation for admission of the laser gun speed reading.

At trial, Officer Maeshiro could not testify that the laser gun was tested in accordance with the manufacturer's specifications. Therefore, the State failed to adduce sufficient evidence regarding the accuracy of the laser gun. In the absence of an adequate foundation establishing the accuracy and reliability of the laser gun, the laser gun reading should not have been admitted into evidence. State v. Assaye, 121 Hawaiʻi 204, 210-14, 216 P.3d 1227, 1233-37 (2009). Without evidence of the laser gun reading, there is insufficient evidence to convict Eddington of Excessive Speeding. We need not address Eddington's other point of error.

Therefore,

IT IS HEREBY ORDERED that the Judgment filed on April 17, 2009 in the District Court of the First Circuit, Honolulu Division, is reversed.

DATED: Honolulu, Hawaiʻi, June 3, 2010.

On the briefs:

Craig W. Jerome,
Deputy Public Defender,
for Defendant-Appellant.

Presiding Judge

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

Associate Judge

Associate Judge