

NO. CAAP-13-0004515

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
JOHN KALANI, IV, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
'EWA DIVISION
(1DTA-12-07168)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant John Kalani IV, also known as John Kalani, (Kalani) appeals from the Notice of Entry of Judgment and/or Order and Plea/Judgment, entered on May 14, 2013, in the District Court of the First Circuit, 'Ewa Division (District Court).¹ After a bench trial, the District Court convicted Kalani of one count of Operating a Vehicle Under the Influence of an Intoxicant, in violation of Hawaii Revised Statutes (HRS) § 291E-61(a)(1) and/or (4) (Supp. 2014).²

¹ The Honorable Lono J. Lee presided.

² HRS § 291E-61(a) provides in relevant part:

(a) A person commits the offense of operating a vehicle under the influence of an intoxicant if the person operates or assumes actual physical control of a vehicle:

- (1) While under the influence of alcohol in an amount sufficient to impair the person's normal mental faculties or ability to care for the person and guard against casualty; [or]

. . . .

(continued...)

On appeal, Kalani argues that the District Court erred in admitting into evidence his blood test results, which were obtained in violation of his rights under Miranda v. Arizona, 384 U.S. 436 (1966); and even if Miranda does not apply, he was denied his right to counsel under HRS § 803-9 (2014).

The District Court, however, adjudged Kalani guilty of violating both HRS §§ 291E-61(a)(1) and (4). Subsections (a)(1) and (a)(4) can each serve as a basis for conviction under § 291E-61. See State v. Nesmith, 127 Hawai'i 48, 61, 276 P.3d 617, 630 (2012). Kalani does not contest his conviction under HRS § 291E-61(a)(1). Therefore, any error as to the HRS § 291E-61(a)(4) conviction was harmless.

Therefore, IT IS HEREBY ORDERED that the Notice of Entry of Judgment and/or Order and Plea/Judgment, entered on May 14, 2013, in the District Court of the First Circuit, 'Ewa Division, is affirmed.

DATED: Honolulu, Hawai'i, July 20, 2015.

On the briefs:

James B. Lewis,
for Defendant-Appellant.

Presiding Judge

Brian R. Vincent,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.

Associate Judge

Associate Judge

²(...continued)
(4)

With .08 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood.