

NO. CAAP-14-0000812

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
MARTIN PETER ALFRED WESLY, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
EWA DIVISION
(CASE NO. 1DTI-13-170129)

SUMMARY DISPOSITION ORDER

(By: Nakamura, Chief Judge, Leonard and Ginoza, JJ.)

Defendant-Appellant Martin Peter Alfred Wesly (**Wesly**) appeals *pro se* from the Notice of Entry of Judgment and/or Order and Plea/Judgment (**Judgment**) entered against him and in favor of the State, on April 7, 2014, by the District Court of the First Circuit, 'Ewa Division (**District Court**),¹ on the traffic infraction of Noncompliance with Speed Limit in violation of Hawaii Revised Statutes (**HRS**) § 291C-102(a)(1) (2007).

On appeal, Wesly contends that the District Court erred when it denied his motion to dismiss this case on the grounds that his last name was incorrectly spelled "Wesley" rather than "Wesly" on the speeding ticket. In addition, Wesly argues, *inter alia*, that there was insufficient evidence to support the District Court's Judgment against him.

¹ The Honorable Alvin K. Nishimura presided. Although no transcript was provided by the appellant, it appears that a different judge presided over Wesly's oral motion to dismiss.

The State contends that Wesley's conviction must be affirmed because Wesley failed to order transcripts and thus failed to furnish this court with a sufficient record to positively demonstrate the alleged errors. We agree.

Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 10 imposes an obligation on the appellant to order transcripts of oral proceedings before the trial court when the "appellant desires to raise any point on appeal that requires consideration of [such] oral proceedings[.]" HRAP Rule 10(b)(1)(A); see Bettencourt v. Bettencourt, 80 Hawai'i 225, 230, 909 P.2d 553, 558 (1995) ("[t]he burden is upon appellant in an appeal to show error by reference to matters in the record, and he or she has the responsibility of providing an adequate transcript") (citation, internal quotation marks, and brackets omitted). Here, no transcripts were requested for Wesley's appeal. Thus, Wesley has failed to meet his burden of providing an adequate record to show error in the denial of his oral motion and/or the sufficiency of the testimonial evidence presented to the District Court. HRAP Rule 10(b)(1)(A); Bettencourt, 80 Hawai'i at 230, 909 P.2d at 558.

Accordingly, the District Court's April 7, 2014 Judgment is affirmed.

DATED: Honolulu, Hawai'i, March 25, 2015.

On the briefs:

Martin Peter Alfred Wesley
Defendant-Appellant Pro Se

Chief Judge

Stephen K. Tsushima
Deputy Prosecuting Attorney
City and County of Honolulu
for Plaintiff-Appellee

Associate Judge

Associate Judge