

NO. CAAP-14-0000434

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
KRISTIAN K. KOVERMAN, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(1DTA-13-02850)

SUMMARY DISPOSITION ORDER

(By: Nakamura, C.J., Fujise and Reifurth, JJ.)

Defendant-Appellant Kristian K. Koverman (Koverman) appeals from the Notice of Entry of Judgment and/or Order and Plea/Judgment, entered on January 16, 2014 in the District Court of the First Circuit, Honolulu Division (District Court).¹

After a fact-stipulated trial, Koverman was convicted of Operating a Vehicle Under the Influence of an Intoxicant (OVUII), in violation of Hawaii Revised Statutes (HRS) 219E-61(a)(3) (Supp. 2015).²

¹ The Honorable David W. Lo presided.

² HRS § 291E-61(a) states:

§291E-61 Operating a vehicle under the influence of an intoxicant. (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:

. . . .

(3) With .08 or more grams of alcohol per two hundred ten liters of breath[.]

On appeal, Koverman contends the District Court erred by denying his motions to suppress evidence because (1) he was not provided with a Miranda warning when asked if he would submit to a breath, blood, or urine test and he would incriminate himself by refusing to do so, (2) he was misinformed of the right to an attorney, in violation of HRS § 803-9 (2014), (3) his breath test results were obtained in violation of his 4th Amendment rights, and (4) he was only informed of some of the sanctions for refusing to take a breath, blood, or urine test and that the implied consent form gave only "one sided sanctions for refusal, and nothing else," in violation of State v. Wilson, 92 Hawai'i 45, 987 P.2d 268 (1999).

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we conclude that this case is governed by the Hawai'i Supreme Court's decision in State v. Won, SCWC-12-000858, 2015 WL 10384497 at *1 (Haw. Nov. 25, 2015).

Therefore,

IT IS HEREBY ORDERED that the Notice of Entry of Judgment and/or Order and Plea/Judgment, entered on January 16, 2014 in the District Court of the First Circuit, Honolulu Division is vacated, and the case is remanded to the District Court for further proceedings consistent with this Summary Disposition Order.

DATED: Honolulu, Hawai'i, June 8, 2016.

On the briefs:

Jonathan Burge,
for Defendant-Appellant.

Chief Judge

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

Associate Judge

Robert T. Nakatsuji,
Deputy Solicitor General,
Department of the Attorney
General,
for Amicus Curiae.

Associate Judge