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NO. CAAP-14-0001278

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee,
v.
PAALANI M. WOODS, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(Honolulu Division)
(CASE NO. 1DTA-14-00087)

SUMMARY DISPOSITION ORDER

(By: Nakamura, Chief Judge, and Foley and Reifurth, JJ.)

Plaintiff-Appellee State of Hawaii (State) charged Defendant-Appellant Paalani M. Woods (Woods) with operating a vehicle under the influence of an intoxicant (OVUII), in violation of Hawaii Revised Statutes (HRS) § 291E-61(a)(1) and/or (a)(3) (2007) (Count 1), and inattention to driving, in violation of HRS § 291-12 (Supp. 2015) (Count 2). Prior to trial, Woods filed several motions to suppress evidence. Without Woods' agreement and over his subsequent objection, the District Court of the First Circuit (District Court)^{1/} did not decide Woods' suppression motions before trial, but instead consolidated the hearing on Woods' suppression motions with his trial.^{2/} The

^{1/} The Honorable Paul B.K. Wong presided.

^{2/} The record indicates confusion and the lack of clarity over whether witnesses were testifying in a pretrial hearing on the suppression motions or in a hearing on the motions that had been consolidated with the trial.

District Court found Woods guilty of OVUII in violation of HRS § 291E-61(a)(1)^{3/} and inattention to driving. The District Court entered its Judgment on October 7, 2014.

On appeal, Woods contends that the District Court erred in: (1) incorporating his pretrial motions to suppress evidence into the trial over his objection; (2) conducting a hearing on pretrial motions on the same day as trial over his objection; (3) depriving him of his right to transcripts of pretrial motions; (4) denying his motion to dismiss the OVUII charge for failure to allege the statutory definition of alcohol; and (5) failing to find a Brady violation^{4/} when the State demanded payment of a fee as a condition to his being permitted to inspect discovery.

The circumstances of Woods' case appear to be similar to those in State v. Rollison, CAAP-14-0000765, 2015 WL 7575334 (Hawai'i App. Nov. 25, 2015) (SDO), and the issues Woods raises in this appeal were included in the issues raised in Rollison. We resolve the issues Woods raises in this appeal by adopting and applying our analysis in Rollison with respect to those issues.

In particular, we conclude that under Hawai'i Rules of Penal Procedure (HRPP) Rule 12(e) (2007)^{5/} and State v. Thomas, 72 Haw. 48, 53-54, 805 P.2d 1212, 1214-15 (1991), the District Court erred in failing to decide Woods' suppression motions before trial, where the record does not show that Woods agreed to consolidate the hearing on the suppression motions with his trial. Rollison, 2015 WL 7575334 at *1. Based on this error, we conclude that Woods' convictions must be vacated. Id. at *1, *3. We also reiterate our statement in Rollison that "[w]hile it may be permissible for the State to charge a defendant for copying costs where the defendant requests copies of materials subject to

^{3/} The District Court granted Woods' motion for judgment of acquittal as to the HRS § 291E-61(a)(3) method of proving OVUII.

^{4/} See Brady v. Maryland, 373 U.S. 83 (1963)

^{5/} HRPP Rule 12(e) provides in relevant part that "a motion to suppress made before trial shall be determined before trial."

disclosure, the State cannot condition the disclosure of Brady material or discovery on the payment for copies that the defendant does not want." Id. at *2. If discovery is required, the State cannot preclude a defendant from *inspecting* discovery materials on the ground that the defendant refuses to pay a fee.

As in Rollison, we vacate the District Court's Judgment. We remand the case for a new trial on the HRS § 291E-61(a)(1) portion of the OVUII charge (Count 1) and the inattention to driving charge (Count 2) and for further proceedings consistent with this Summary Disposition Order.

DATED: Honolulu, Hawai'i, June 2, 2016.

On the briefs:

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Chief Judge


Associate Judge


Associate Judge