

NO. CAAP-14-0000820

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee, v.
BRIAN A. BONILLA, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(CASE NO. 1DTA-13-05105)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Brian A. Bonilla appeals from the Notice of Entry of Judgment and/or Order and Plea/Judgment ("Judgment") entered by the District Court of the First Circuit, Ewa Division ("District Court") on April 15, 2014.^{1/} Bonilla was convicted of operating a vehicle under the influence of an intoxicant in violation of Hawaii Revised Statutes ("HRS") section 291E-61(a)(1) and (3) (Supp. 2012).^{2/} Bonilla raises ten

^{1/} The Honorable Lono J. Lee presided.

^{2/} HRS section 291E-61 states 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;

. . . .

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

points of error on appeal.

For the reasons expressed with regard to the same arguments arising out of essentially indistinguishable circumstances in *State v. Seidl*, No. CAAP-14-0000885, 2016 WL 6879554 (Hawai'i App. Nov. 22, 2016) and the case law cited therein, we vacate the Judgment herein and remand to the District Court for proceedings consistent with that decision.

DATED: Honolulu, Hawai'i, April 7, 2017.

On the briefs:

Kevin O'Grady
for Defendant-Appellant.

Chief Judge

James N. Anderson,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.

Associate Judge

Associate Judge