

CONCURRING OPINION BY NAKAMURA, C.J.

I concur with the majority's decision. In determining whether a sufficient foundation has been laid that a police officer is qualified to operate a speed detection device, the existing precedents of the Hawai'i Supreme Court have focused on whether the State has shown that the officer's training met the requirements indicated by the manufacturer of the device. See State v. Amiral, 132 Hawai'i 170, 178-79, 319 P.3d 1178, 1186-87 (2014); State v. Gonzalez, 128 Hawai'i 314, 327, 288 P.3d 788, 801 (2012). It is not clear that the manufacturer of the radar device used in this case has actually established any specific training requirements. See State v. Ramos, No. CAAP-12-0000138, 2014 WL 2694230, at *8 (Hawai'i App. June 13, 2014) (SDO) (Nakamura, C.J., concurring) ("In this appeal, the State of Hawai'i (State) represents that the manufacturer of the laser gun used in this case has not set forth specific training requirements for the operation of the laser gun."). Obviously, it would be difficult to lay a foundation based on training requirements indicated by the manufacturer if the manufacturer had not established any specific training requirements.

Here, disregarding training requirements, if any, indicated by the manufacturer, the State failed to present other evidence demonstrating the officer's competency or proficiency in operating the radar device. The State, for example, did not offer evidence that the officer had passed a test designed to verify the officer's ability to use the device accurately to obtain a vehicle's speed or that the officer had otherwise demonstrated the ability to obtain speed readings that were shown to be accurate. Therefore, I agree that the State failed to lay a sufficient foundation that the officer was qualified to operate the radar device, and that the District Court erred in admitting, over Cooper's objection, the officer's testimony regarding the speed reading.

Craig A. Nakamura