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NO. CAAP-18-0000127

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee,
v.
CRYSTAL MAE MARINAS, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(CASE NO. 1DTA-17-02276)

SUMMARY DISPOSITION ORDER

(By: Leonard, Presiding Judge, Reifurth and Hiraoka, JJ.)

Defendant-Appellant Crystal Mae Marinas (**Marinas**) was convicted of Operating a Vehicle Under the Influence of an Intoxicant (**OVUII**) in violation of Hawaii Revised Statutes (**HRS**) § 291E-61(a)(1) (Supp. 2018).¹ She appeals from the Notice of Entry of Judgment and/or Order and Plea/Judgment (**Judgment**) entered on January 12, 2018, and the Amended Notice of Entry of Judgment and/or Order and Plea/Judgment (**Amended Judgment**) entered by the District Court of the First Circuit, Wai'anae Division (**District Court**) on October 4, 2018. On appeal, Marinas claims there was insufficient evidence to convict her of OVUII. For the reasons explained below, we affirm the Judgment and Amended Judgment.

¹ HRS § 291E-61 provides, 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[.]

On June 26, 2017, Marinas was charged by complaint with OVUII. The charge arose from an incident that allegedly occurred on May 28, 2017. Marinas pleaded not guilty. A jury-waived trial was conducted on January 12, 2018.² The State's only witness was Honolulu Police Department (HPD) Officer Ryan Espiritu (**Officer Espiritu**). Officer Espiritu testified that sometime after midnight on May 28, 2017, he was on duty driving a marked HPD vehicle westbound on the H-1 freeway. He observed Marinas driving a sedan about four car lengths ahead. They were the only vehicles on the road. Marinas was driving partially in the right lane, straddling the solid white line that separates the traffic lane from the unimproved shoulder. Both passenger-side tires of Marinas' car were on the shoulder. Officer Espiritu watched her driving for about four seconds. She returned to the travel lane but drifted over the solid white line two more times within a half-mile. After the third time, Officer Espiritu pulled Marinas over. She was the only person in her vehicle, with a dog in the back seat. An odor of alcohol came from her vehicle, and became more pronounced when she spoke. She said she was coming from a barbecue. Officer Espiritu testified that Marinas' face was flushed. Her eyes were red, watery, and glassy. Officer Espiritu arrested her for OVUII.

Marinas did not testify. The District Court ruled:

I'm convinced that reasonable -- beyond a reasonable doubt that -- that you were impaired. Based on this evidence and based on the -- the character of the driving, I -- I'm finding you guilty in this case.

This appeal followed.

In reviewing the sufficiency of the evidence to support the conviction the appellate court must take that view of the evidence with inferences reasonably and justifiably to be drawn therefrom most favorable to the Government, without weighing the evidence or determining the credibility of the witnesses. The test on appeal is not whether guilt is established beyond a reasonable doubt, but whether there was substantial evidence to support the conclusion of the trier of fact.

² The Honorable Philip M. Doi presided.

State v. Teale, 139 Hawai'i 351, 359, 390 P.3d 1238, 1246 (2017) (citations, brackets and quotation marks omitted). In this case Officer Espiritu's testimony, viewed in the light most favorable to the State, substantially supported the District Court's finding. The Judgment is affirmed.

DATED: Honolulu, Hawai'i, April 25, 2019.

On the briefs:

Alen M. Kaneshiro,
for Defendant-Appellant.

Donn Fudo,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.



Presiding Judge



Associate Judge



Associate Judge