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Intermediate Court of Appeals
CAAP-25-0000542
24-AUG-2026
07:54 AM
Dkt. 94 SO

NO. CAAP-25-0000542

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellant/Cross-Appellee,
v.
LAVERNE L. LEE, Defendant-Appellee/Cross-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(CASE NO. 5CPC-23-0000095)

SUMMARY DISPOSITION ORDER

(By: Hiraoka, Presiding Judge, McCullen and Guidry, JJ.)

Plaintiff-Appellant/Cross-Appellee State of Hawaii
(**State**) appeals, and Defendant-Appellee/Cross-Appellant
Laverne L. Lee (**Lee**) cross-appeals, from the Circuit Court of
the Fifth Circuit's (**circuit court**) July 23, 2025 "Findings of
Fact; Conclusions of Law; and Order Granting in Part and Denying
in Part Motion to Suppress Evidence" (**Suppression Order**).¹

On May 4, 2023, the State charged Lee by Felony
Information with one count of Promoting a Dangerous Drug in the

¹ The Honorable Randal G.B. Valenciano presided.

Second Degree, in violation of Hawaii Revised Statutes (**HRS**) § 712-1242(1)(b)(i) (Supp. 2016). In November 2024, Lee moved to suppress evidence "allegedly recovered by police on April 20, 2022," during a search of Lee's vehicle, pursuant to article I, section 7 of the Constitution of the State of Hawai'i, and the Fourth Amendment of the United States Constitution. The search of Lee's vehicle was conducted pursuant to a Search Warrant issued on April 14, 2022, and executed on April 20, 2022. The Search Warrant was supported by Officer Tyler Yates' (**Officer Yates**) "Affidavit in Support of Search Warrant" (**Affidavit**), which included attachments setting forth Officer Yates' "Training and Experience," and the "Observation of Affiant." (Formatting altered.)

Officer Yates submitted the return of search warrant on June 9, 2022. The return of search warrant included a "Search Warrant Property Receipt for Case 22-04957" (**Property Receipt**), which was signed on May 11, 2022. The Property Receipt included an itemized list of the property that was seized during the search of Lee's vehicle.

The circuit court heard Lee's "Motion to Suppress Evidence" (**Motion to Suppress**) and entered its Suppression Order. The circuit court granted the Motion to Suppress in part, finding that Officer Yates violated Hawai'i Rules of Penal Procedure (**HRPP**) Rule 41(d) by filing the return of search

warrant fifty days after the search, and suppressing the evidence seized from Lee's vehicle on that basis. The circuit court denied the Motion to Suppress in part, rejecting Lee's argument that the search was not supported by probable cause.

On appeal, the State raises a single point of error, contending that "the circuit court erred by suppressing evidence seized pursuant to the search warrant, reasoning that [HRPP Rule 41(d)] had been violated" where "the lead officer *unintentionally* did not promptly file the search warrant return and that [Lee] was *not* prejudiced by the 50-day delay in filing the return." (Formatting altered) (footnote omitted.)

On cross-appeal, Lee also raises a single point of error, contending that "[t]he circuit court erred when it denied in part Lee's [M]otion to [S]uppress and determined that the evidence underlying the search warrant was sufficient for probable cause." (Formatting altered.)

We resolve the State's and Lee's points of error as follows:

(1) **Probable Cause**: We first address Lee's contention that the Search Warrant was not supported by probable cause "when it allowed a search of Lee's vehicle, license plate number KEH 764, and insufficient evidence was provided of any drug activity associated with that particular vehicle." Lee contends that the circuit court therefore erred in denying her Motion to

Suppress in part, and in entering conclusion of law (COL) 4.²

"[T]he determination of probable cause for the issuance of a search warrant warrants de novo review on appeal." State v. Navas, 81 Hawai'i 113, 123, 913 P.2d 39, 49 (1996) (formatting altered).

In Iwatate, this court reiterated that,

[U]nder the safeguards of the fourth amendment to the United States Constitution and article I, section 7 of the Hawai'i Constitution, all arrests and searches must be based upon probable cause.

Probable cause exists when the facts and circumstances within one's knowledge and of which one has reasonably trustworthy information are sufficient in themselves to warrant a person of reasonable caution to believe that an offense has been committed. Direct evidence, however, is not necessary for a probable cause determination by the [judge]. The issuance of a search warrant is prohibited except upon a finding of probable cause supported by oath or affirmation.

108 Hawai'i at 368, 120 P.3d at 267 (quoting Navas, 81 Hawai'i at 115-16, 913 P.2d at 41-42).

Officer Yates' Affidavit established probable cause for the Search Warrant. The Affidavit represented that, in

² COL 4 states,

In the present case, although Officer Yates does not indicate any information that [Lee] allegedly used the subject vehicle to conduct alleged drug sales and no assisting officer is quoted as clearly seeing [Lee] utilize the subject vehicle at the time of (or immediately before) the controlled buy, there is sufficient information to link the subject vehicle to [Lee] and the information from assisting officers do create a permissible inference that there is a nexus between [Lee's] alleged drug sales and the subject vehicle. [See State v. Iwatate, 108 Hawai'i 361, 120 P.3d 260 (App. 2005)].

April 2022, Officer Yates obtained information from a confidential Cooperative Source (**CS**) that Lee "was distributing crystal methamphetamine on the island of [Kaua'i]." The CS described Lee, and related that Lee "drives a white colored Lexus SUV with black colored rims."

Between April 6 and 12, 2022, CS participated in a controlled buy of crystal methamphetamine from Lee in coordination with Officer Yates and other Kaua'i Police Department (**KPD**) officers. Prior to the controlled buy, CS met with Officer Yates at a prearranged meet location. CS was instructed to follow a prearranged route directly to a prearranged buy location, and CS was provided traceable money by the KPD to purchase an agreed upon amount of crystal methamphetamine from Lee. CS's person and vehicle were searched to ensure that CS did not have "illegal narcotics, contraband, weapons, and money."

Officer Yates and other KPD officers monitored CS travelling directly from the meet location to the prearranged buy location. At the buy location, two KPD officers participating in the operation "observed a white colored Lexus SUV with tinted windows and black rims." A third KPD officer related that the white colored Lexus SUV bore the license plate number "KEH764." A KPD officer observed CS arrive at the buy location, "approach the white colored SUV bearing [Hawai'i] State

License plate KEH764 and make contact with [Lee]," and "leave the prearranged buy location."

Officer Yates and the other KPD officers monitored CS travel directly from the buy location to the meet location. At the meet location, Officer Yates "obtained the agreed amount of crystal methamphetamine that [CS] just purchased from [Lee]." Following the controlled buy, the crystal methamphetamine purchased by CS from Lee was tested and "reacted positive for the presence of methamphetamine." Officer Yates conducted a State of Hawai'i Motor Vehicle Inquiry, and "learned that [the] vehicle bearing [Hawai'i] State license plates KEH764 is described as [a] white colored 2007 Lexus MPVH . . . registered to [Lee]."

Officer Yates' sworn statement represented that, based on the above observations,

[Officer Yates] believes that crystal methamphetamine and/or Drug Paraphernalia can be located within the vehicle described as a white colored 2007 Lexus MPVH bearing [Hawai'i] State License plate KEH764, registered to [Lee] [Officer Yates] therefore requests the issuance of a search warrant for the following:

A motor vehicle bearing [Hawai'i] State license plates KEH764 described as a white colored 2007 Lexus MPVH registered to [Lee] . . . , including but not limited to purses, backpacks, bags, fanny-packs, hand-held electronic devices, containers, packages, luggage, receipts, documents, and clothing found within the vehicle.

Lee argues on appeal that "[t]he evidence presented in the [A]ffidavit failed to sufficiently link the vehicle searched (the vehicle with license plate KEH 764) with any drug

activity." Probable cause is based on the reasonable inferences drawn from the totality of the circumstances. See State v. Chong, 52 Haw. 226, 231, 473 P.2d 567, 571 (1970) ("[P]robable cause is generally based upon a combination of factors, which together form a sort of mosaic, of which any one piece by itself often might not be enough to constitute probable cause, but which, when viewed as a whole, does constitute probable cause."); State v. Ferrer, 95 Hawai'i 409, 431, 23 P.3d 744, 766 (App. 2001) ("[W]e consider the totality of the circumstances to determine, de novo, whether [a police officer] had probable cause to arrest [the defendant]." (formatting altered)). Here, the Affidavit established that the observations of CS and KPD officers who participated in the controlled buy, taken as a whole, support a reasonable inference that Lee is the registered owner of a white Lexus with license plate number KEH 764, and that, while in this vehicle, Lee sold crystal methamphetamine to CS at a controlled buy location.

We conclude that the circuit court was not wrong in determining that the Search Warrant was supported by probable cause. We therefore affirm the circuit court's denial of Lee's Motion to Suppress on that basis, and we affirm COL 4.

(2) **HRPP Rule 41(d)**: We next address the State's contention that the circuit court erred by suppressing the evidence seized based on the violation of HRPP Rule 41(d). The

State contends that the evidence should not have been suppressed because Lee "was not prejudiced by [Officer Yates'] 50-day delay in filing the return" of the search warrant, and that "non-compliance with HRPP Rule 41(d)," standing alone, "does not require suppression of evidence."³ (Formatting altered) (emphasis omitted.) The State contends, on this basis, that the circuit court erred in entering COL 7, which states,

Although the [State] argues that the requirement of a prompt return should be treated as ministerial and Officer Yates did not have ill intent, the length of the delay in this case is sufficient to justify treatment of the prompt return requirement as substantive and justify suppression in order to incentivize the police and other law enforcement to comply with the promptness requirement of HRPP Rule 41(d).

In State v. Stachler, the Hawai'i Supreme Court held that,

[W]here, as here, there has been no showing that a violation of [HRPP] Rule 41(d) procedures has resulted in prejudice to the defendant's rights, a suppression remedy is not appropriate.

This, of course, should in no way be interpreted as a license to law enforcement officers to disregard the procedures of [HRPP] Rule 41(d). We will not hesitate to call into play the suppression remedy where a sufficient showing of prejudice is made.

³ HRPP Rule 41(d) states, in pertinent part,

Execution and return with inventory. The officer taking property under the warrant shall give to the person from whom or from whose premises the property was taken a copy of the warrant and a receipt for the property taken or shall leave the copy and receipt at the place from which the property was taken. **The return shall be made promptly and shall be accompanied by a written inventory of any property taken.**

(Emphasis added.) The State represents that it "does not dispute the circuit court's conclusion that a 50-day delay between execution of the search warrant and the filing of the search warrant return is not prompt." (Emphasis added.)

58 Haw. 412, 422-23, 570 P.2d 1323, 1330 (1977) (citation omitted). A finding of prejudice to the defendant's rights is therefore required to "call into play the suppression remedy." Id.

Here, it appears the circuit court ordered the suppression of evidence seized in the search of Lee's vehicle on the sole ground that "the length of the delay in this case is sufficient to justify treatment of the prompt return requirement as substantive and justify suppression in order to incentivize the police and other law enforcement to comply with the promptness requirement."⁴

The record reflects that Lee failed to satisfy her burden of demonstrating that Officer Yates' delayed return of the search warrant resulted in prejudice to Lee. See id. at

⁴ At the hearing on the Motion to Suppress, the circuit court explained its ruling that Officer Yates' delayed return of the search warrant violated HRPP Rule 41(d), as follows:

[I]n regards to the [HRPP] Rule 41(d) [violation], **the [circuit] [c]ourt finds that Officer Yates didn't have bad intent in filing the return.** The return was filed June 9th. The search warrant was April 20th. **The [circuit] [c]ourt finds that the return -- search warrant return was not filed promptly** in accordance with [HRPP] Rule 41(d). The [circuit] [c]ourt's concern is that if the [circuit] [c]ourt treats this as ministerial and there is no consequence, then there's no incentive for the police to comply with -- there's no incentive for law enforcement to comply with [HRPP] Rule 41(d). **Based on that, the [circuit] [c]ourt will grant the [M]otion to [S]uppress for failure to comply with Rule -- HRPP Rule 41(d).**

(Emphasis added.)

422, 570 P.2d at 1330 (adopting the proposition that "a motion to suppress because of violations of [HRPP] Rule 41(d) should be granted only in instances where the defendant demonstrates prejudice from the violation" (citation omitted)). Lee did not introduce any evidence that would demonstrate that she suffered any prejudice, nor did she argue to the circuit court that she suffered prejudice. Given the lack of prejudice to Lee, we conclude that the circuit court erred in suppressing the evidence obtained from the search of Lee's vehicle based on the violation of HRPP Rule 41(d).

For the foregoing reasons, we affirm in part and reverse in part the Suppression Order.

DATED: Honolulu, Hawai'i, August 24, 2026.

On the briefs:

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/s/ Keith K. Hiraoka
Presiding Judge

/s/ Sonja M.P. McCullen
Associate Judge

/s/ Kimberly T. Guidry
Associate Judge