

**Electronically Filed
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NO. CAAP-24-0000784

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
CHARLES M. BARKER III, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT
NORTH AND SOUTH HILO DIVISION
(CASE NO. 3DTI-24-006362)

SUMMARY DISPOSITION ORDER

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

On June 25, 2024, Charles M. **Barker** III was cited for Mobile Electronic Devices in violation of Hawaii Revised Statutes (**HRS**) § 291C-137(a).¹ The *Judgment After Trial De Novo & Notice of Entry of Judgment* was entered on October 31, 2024.² Barker appeals, representing himself. We affirm.

Barker's opening brief does not comply with Hawaii Rules of Appellate Procedure (**HRAP**) Rule 28(b). It contains no statement of the points of error, required by HRAP Rule 28(b)(4). It contains no record references, required by HRAP Rule 28(b)(4) and (7). To promote access to justice, we have attempted to discern Barker's arguments.

(1) Barker contends the "Prosecutor failed to provide either video evidence or credible testimony that any violation had occurred." Barker did not order transcripts of his trial de

¹ HRS § 291C-137(a) (2020) provides: "No person shall operate a motor vehicle while using a mobile electronic device."

² The Honorable M. Kanani Laubach presided.

novo for the record on appeal. See HRAP Rule 10(b)(1)(A). "The burden is upon appellant in an appeal to show error by reference to matters in the record, and he or she has the responsibility of providing an adequate transcript." Bettencourt v. Bettencourt, 80 Hawai'i 225, 230, 909 P.2d 553, 558 (1995) (brackets omitted). There is no basis in the record for us to review the sufficiency of the evidence. And an "appellate court will not pass upon issues dependent upon the credibility of witnesses and the weight of evidence; this is the province of the fact finder." Maunalua Bay Beach Ohana 28 v. State, 157 Hawai'i 150, 157, 575 P.3d 783, 790 (2025).

(2) Barker appears to challenge the police officer's observations of Barker using his cell phone. Without the trial transcript, there is no basis in the record for us to review Barker's argument, and we will not pass upon the trial court's determination of witness credibility.

(3) Barker contends the legislative intent behind HRS § 291C-137(a) was to promote safety, not "to be a 'revenue generator'["]. He then argues he "violated no safety law["]. The trial court found he violated HRS § 291C-137(a). There is no basis in the record for us to review the sufficiency of the evidence to support the trial court's finding.

(4) Barker argues the police officer who issued the citation forged his signature. The handwritten word "COVID" appears in the space on the citation for the defendant's signature. Rule 9(a) of the Hawai'i Civil Traffic Rules provides that "[t]he lack of the defendant's signature for any reason does not void the notice of infraction." Barker argues the alleged forgery impeaches the officer's credibility. We will not pass upon the trial court's determination of witness credibility.

(5) Barker argues the State concealed evidence because the video from the citing officer's body-worn camera shows "only a grey blank screen from the time stamp 2:13:24 to 2:19:43["]. State's Exhibit 2 begins at 02:17:14 and ends at 02:23:03. There are no grey or blank spots.

(6) Barker contends he served a request for admissions on the prosecutor's office, the Hawai'i County Police Department,

and the citing officer on February 26, 2025 (while this appeal was pending). He argues that the State is obstructing justice by failing to respond. The HRAP contains no provision for discovery. The State had no obligation to respond to Barker's improper request for admissions.

The district court's October 31, 2024 *Judgment After Trial De Novo & Notice of Entry of Judgment* is affirmed.

DATED: Honolulu, Hawai'i, September 4, 2026.

On the briefs:

Charles M. Barker III,
Self-represented
Defendant-Appellant.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Keith K. Hiraoka
Associate Judge

Kelden B.A. Waltjen,
Prosecuting Attorney,
Olivia C. Stevens,
Deputy Prosecuting Attorney,
County of Hawai'i,
for State of Hawai'i.

/s/ Sonja M.P. McCullen
Associate Judge