

**Electronically Filed
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NO. CAAP-25-0000412

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
MICHAEL YELLEN, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT
NORTH AND SOUTH HILO DIVISION
(CASE NO. 3DTI-24-009253)

SUMMARY DISPOSITION ORDER

(By: Nakasone, Chief Judge, Hiraoka and McCullen, JJ.)

Michael **Yellen**, representing himself, appeals from the *Judgment and Notice of Entry of Judgment* entered by the District Court of the Third Circuit, North and South Hilo Division.¹ We affirm.

On November 12, 2024, Yellen was issued a **Notice of Traffic Infraction** for exceeding the speed limit in violation of Hawaii Revised Statutes (**HRS**) § 291C-102(a)(1) (2020). The Notice stated the violation was measured by radar and the police officer who issued it was certified to use the device, which was accurate, tested, and working properly. See Hawai'i Civil Traffic Rules (**HCTR**) Rule 9(b)(2) (2006).

Yellen served a document request on the State. He requested, among other things:

2. Any and all **DOCUMENTATION** of what does the manufacturer of the laser device recommend for the procedures to [b]e used prior to their product to be used and to be accurate.

. . . .

6. Any and all **DOCUMENTATION** of the manufacturer recommendation to use a tuning fork to calibrate the radar gun use to indicated that **MIKE YELLEN** was speeding.

The State did not produce the requested documents. Yellen moved to compel discovery. The district court denied the motion. After a trial, the court entered judgment for the State. This appeal followed.

Yellen's opening brief doesn't comply with Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 28(b), but we do not automatically foreclose self-represented litigants from appellate review if they don't comply with court rules. Erum v. Llego, 147 Hawai'i 368, 380-81, 465 P.3d 815, 827-28 (2020). The brief states a single point of error: the district court erred by denying Yellen's motion to compel discovery.

No statute or rule authorizes the discovery Yellen sought to compel from the State. Traffic infraction trials are held under HRS § 291D-13 (2020 & Supp. 2023), the Hawai'i Rules of Penal Procedure (**HRPP**), the Rules of the District Courts of the State of Hawai'i (**RDCH**), and the Hawai'i Rules of Evidence (**HRE**). HCTR Rule 19(c) (2009).

HRS § 291D-13 does not provide for discovery.

HRPP Rule 16.1 governs discovery in criminal traffic cases. Speeding in violation of HRS § 291C-102(a)(1) is a traffic infraction. HRS § 291D-2 (2020). Traffic infractions are not criminal offenses. HRS § 291D-3(a) (Supp. 2023). There is no right to discovery in civil traffic cases under the HRPP.

RDCH Rule 33(a) (1986) provides procedures for discovery in traffic cases, but only in the District Court of the First Circuit. The RDCH do not allow discovery in traffic cases in the District Court of the Third Circuit.

The HRE do not provide for discovery.

The district court did not err by denying Yellen's motion to compel.

Yellen also argues he was deprived of his "constitutional right to put on a defense." We construe this as arguing he was denied his constitutional right to due process.

"For due process to be satisfied, an entitled party must have notice and a meaningful opportunity to be heard." Sierra Club v. Bd. of Land & Nat. Res., 156 Hawai'i 382, 395, 575 P.3d 472, 485 (2025).

Here, the Notice informed Yellen that a radar was used to detect his speed. For the State to sustain its burden of proof at trial, it would have had to call the police officer who issued the Notice to Yellen. Yellen would have had the opportunity to challenge foundation for admissibility of the radar evidence, and to cross-examine the officer about his training in, and use of, the radar device when he determined that Yellen was speeding. See State v. Weber, 148 Hawai'i 225, 226, 468 P.3d 768, 769 (App. 2020). Yellen thus had a reasonable opportunity to be heard.

Yellen did not include the trial transcript in the record on appeal, so we can't know whether he was deprived of due process during trial by, for example, not being allowed to object to foundation or to cross-examine the officer. "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).

Yellen has not sustained his burden to show error. The district court's April 24, 2025 Judgment and Notice of Entry of Judgment is affirmed.

DATED: Honolulu, Hawai'i, September 29, 2026.

On the briefs:

Michael Yellen,
Self-represented
Defendant-Appellant.

/s/ Karen T. Nakasone
Chief Judge

/s/ Keith K. Hiraoka
Associate Judge

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/s/ Sonja M.P. McCullen
Associate Judge