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NO. CAAP-25-0000691

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAIʻI

STATE OF HAWAIʻI, Plaintiff-Appellee,
v.
THEOTIS MYRICK, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT
LĀHAINĀ DIVISION
(CASE NO. 2DTI-25-623346)

SUMMARY DISPOSITION ORDER
(By: Hiraoka, Presiding Judge, Wadsworth and Guidry, JJ.)

Self-represented Defendant-Appellant Theotis Myrick (**Myrick**) was charged with violating Hawaii Revised Statutes (**HRS**) § 291C-137(a) (2020), and issued a Notice of Traffic Infraction.[1] He appeals from the District Court of the Second Circuit's (**district court**)[2] "Judgment and Notice of Entry of Judgment" (**Judgment**), entered on October 6, 2025.

[1] HRS § 291C-137(a) states, "[n]o person shall operate a motor vehicle while using a mobile electronic device."

[2] The Honorable Bevanne J. Bowers presided.

Myrick raises five points of error on appeal, contending that the district court: (1) "erred by denying [Myrick] a fair opportunity to prepare a defense when it denied the Motion to Dismiss immediately before trial and proceeded to trial the same day"; (2) "violated [Myrick's] right to due process by allowing trial to proceed despite the [Plaintiff-Appellee State of Hawaiʻi (**State**)]'s failure to provide requested discovery"; (3) "erred by shifting the burden of obtaining discovery to a self-represented defendant through subpoenas rather than enforcing the State's discovery obligations"; (4) "erred by permitting testimony and conviction without reliable corroborating evidence, including dash camera video"; and (5) through "[t]he cumulative effect of these errors deprived [Myrick] of a fair trial, requiring reversal."[3]

Upon careful review of the record, briefs, and relevant legal authorities, and having given due consideration

[3] Myrick's opening brief, including his "Points of Error," does not comply with Hawaiʻi Rules of Appellate Procedure (**HRAP**) Rule 28(b). Moreover, the opening brief does not include any record citations or citations to legal authority, and Myrick did not order any transcripts for the record. Although we are not obligated to search the record to crystallize Myrick's arguments, Hawaii Ventures, LLC v. Otaka, Inc., 114 Hawaiʻi 438, 469 n.16, 164 P.3d 696, 727 n.16 (2007), and noncompliance with HRAP Rule 28(b) can alone be sufficient to affirm the district court's Judgment, Bettencourt v. Bettencourt, 80 Hawaiʻi 225, 228, 909 P.2d 553, 556 (1995) (citation omitted), we endeavor to afford "litigants the opportunity to have their cases heard on the merits, where possible." Marvin v. Pflueger, 127 Hawaiʻi 490, 496, 280 P.3d 88, 94 (2012) (cleaned up).

to the arguments advanced and the issues raised by the parties, we resolve Myrick's contentions as follows.

(1) Myrick contends that the district court "denied [Myrick's] Motion to Dismiss immediately before trial and then required [Myrick] to proceed to trial without time to adjust or prepare." "A trial court's ruling on a motion to dismiss is reviewed de novo." Ryan v. Herzog, 142 Hawaiʻi 278, 284, 418 P.3d 619, 625 (2018) (citations omitted).

Myrick's motion to dismiss argued that the case should be dismissed on the basis of the State's "fail[ure] to comply with its constitutional and statutory obligations to provide discovery materials material to the defense." As the State correctly points out, there is nothing in the record to suggest that Myrick requested a continuance after the district court denied his motion to dismiss.[4] Myrick does not cite any authority that the district court was obligated to sua sponte continue the trial. Moreover, Myrick did not demonstrate on the record that he required additional "time to adjust or prepare," such that he was prejudiced by the absence of a continuance.

Myrick's contention lacks merit.

(2) Myrick contends that the district court violated his due process rights by "allowing trial to proceed despite the

[4] The record reflects that Myrick earlier requested a continuance of his arraignment, plea and trial, which the district court granted.

State's failure to provide requested discovery," that it "shift[ed] the burden of obtaining discovery to a self-represented defendant through subpoenas rather than enforcing the State's discovery obligations," and that it "erred by permitting testimony and conviction without reliable corroborating evidence, including dash camera video."

"We answer questions of constitutional law by exercising our own independent judgment based on the facts of the case, and, thus, questions of constitutional law are reviewed on appeal under the 'right/wrong' standard." State v. Young, 150 Hawaiʻi 365, 369, 502 P.3d 45, 49 (App. 2021) (citation omitted).

The record reflects that Myrick submitted a Request for Discovery on July 21, 2025, requesting, as related to Myrick's alleged traffic infraction: (1) a copy of the citation; (2) the police officer's narrative or report; (3) any related photographs, video, or audio recordings, including body camera footage, dashcam footage, and surveillance or traffic camera recordings; (4) any written or electronic communication between the officer and dispatch; (5) any witness statements; (6) a copy of the officer's training records regarding use of equipment or technology used; (7) a copy of any law enforcement internal policies or procedures regarding traffic stops for mobile device use; (8) any physical or electronic evidence to be introduced at

trial; and (9) any exculpatory evidence in the State's possession.

The deputy prosecuting attorney responded to Myrick's discovery request as follows:

> In response to your recent request for discovery in the above entitled matter, **please find the enclosed copy of the [State's] Amended List of Potential Witnesses for the Prosecution's Case in Chief against you** at the trial that is scheduled for 08:30 a.m. on August 25, 2025, in Lahaina District Court, as well as **a copy of your citation**, and **a DVD copy of Officer Ehlers' bodycam recording of his traffic stop of you on May 14, 2025**. Please note that the primary evidence that I intend to offer into evidence will be the live testimony of Officer Ryan Ehlers stating that he saw you hold your mobile electronic device in your hand while you were operating your motor vehicle in violation of [HRS §] 291C-137. As you can see from the enclosed copy of [HRS §] 291C-137, merely holding a mobile electronic device in your hand while operating a motor vehicle constitutes a violation of that law.

(Emphasis added.)

By letter dated August 8, 2025, the deputy prosecuting attorney requested that the Maui Police Department (**MPD**) forward the "records being requested in item numerals 4, 6 and 7" of Myrick's letter that "are in [the MPD's] possession and control and may be released in accordance with state and federal laws." MPD Chief of Police John Pelletier responded that "all requests for MPD records requested as discovery . . . must be made via subpoena."

By letter dated August 26, 2025, the deputy prosecuting attorney communicated the following to Myrick:

> As you will recall, **on Monday, August 25, 2025, I gave you a second copy of the lone documentary evidence, i.e., Officer Ehler's bodyworn camera recording on a DVD,** which I intend to introduce at your trial. **All other**

> **documents pertaining to your July 21, 2025 discovery request are documents that are not in possession of the Department of the Prosecuting Attorney**. Therefore, please see the enclosed copy of my August 8, 2025 letter to the [MPD], through which I transmitted a copy of your July 21, 2025 discovery request. The [MPD] responded to me by way of the enclosed letter dated August 20, 2025, in which the [MPD] states that it will disclose such documents only in response to a subpoena. Therefore, **to the extent that you want to obtain documents from the [MPD], you will need to seek, obtain and enforce a subpoena in a timely matter [sic] prior to the trial, which is now set for October 6, 2025**. I will not obtain such a subpoena because I do not seek those documents that you want from the [MPD].

(Emphasis added.)

Myrick was charged with a traffic infraction pursuant to HRS § 291C-137(a). A traffic infraction is classified as a civil offense, and not a criminal offense. HRS § 291D-3(a) (Supp. 2021) ("No traffic infraction[5] or emergency period infraction shall be classified as a criminal offense."). "[Hawai‘i Rules of Penal Procedure (**HRPP**)] Rule 16.1 governs discovery in criminal traffic cases," "[t]raffic infractions are not criminal offenses," and "[t]here is no right to discovery in civil traffic cases under the HRPP." State v. Yellen, No. CAAP-25-0000412, 2026 WL 2923672, at *1 (Haw. App. Sep. 29, 2026) (SDO) (citation omitted).

Here, the State provided Myrick with the discovery materials within the department of the prosecuting attorney's

[5] HRS § 291C-137(g) (2020) states, "Any violation as provided in subsections (a) and (c) shall be deemed to be a traffic infraction as defined in section 291D-2." HRS § 291D-2 (2020) defines "[t]raffic infraction" as "all violations of statutes, ordinances, or rules relating to traffic movement and control, including parking, standing, equipment, and pedestrian offenses, for which the prescribed penalties do not include imprisonment and that are not otherwise specifically excluded from coverage of this chapter."

possession or control. The State informed Myrick that he would need to obtain discovery materials in MPD's possession through a subpoena. Myrick did not seek a subpoena. We therefore conclude that, in this civil traffic case, the State did not "fail[] to provide required discovery," and the district court did not "improperly shift[] the burden of discovery to a pro se defendant." (Formatting altered.)

Moreover, because Myrick did not make the trial transcript part of the record, he has not provided a sufficient record for our review of his contention that the State failed to introduce sufficient "corroborating evidence." See Hawaiʻi Rules of Appellate Procedure Rule 10(b) (making it the appellant's responsibility to include in the record on appeal transcripts of the pertinent oral proceedings conducted by the trial court); Bettencourt v. Bettencourt, 80 Hawaiʻi 225, 230, 909 P.2d 553, 558 (1995) ("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." (cleaned up)).

On this record, we conclude that Myrick's due process rights were not violated.

(3) Myrick lastly contends that the "cumulative effect" of the alleged errors denied him a fair trial and requires the reversal of his conviction. As discussed, supra,

there was no error. Myrick's final contention therefore lacks merit.

For the foregoing reasons, we affirm the Judgment.

DATED: Honolulu, Hawai‘i, November 24, 2026.

On the briefs:

Theotis Myrick,
Self-represented
Defendant-Appellant.

Chad M. Kumagai,
Deputy Prosecuting Attorney
County of Maui
for Plaintiff-Appellee.

/s/ Keith K. Hiraoka
Presiding Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Kimberly T. Guidry
Associate Judge