

FOR PUBLICATION

NO. 26470

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

---o0o---

STATE OF HAWAI'I, Plaintiff-Appellee, v.
TIMOTHY C. REES, Defendant-Appellant

E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

2005 JUN 17 AM 7:52

FILED

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT
NORTH & SOUTH HILO DIVISION
(CITATION NO. 1803070MH)

ORDER DENYING MOTION FOR RECONSIDERATION
(By: Burns, C.J., Watanabe and Lim, JJ.)

The motion for reconsideration filed by Defendant-Appellant Timothy C. Rees (Rees) on June 6, 2005, expresses his sundry complaints against enforcement of the following section of the Hawaii Revised Statutes (HRS):

§ 286-25 Operation of a vehicle without a certificate of inspection. Whoever operates . . . any vehicle on a public highway without a current official certificate of inspection, issued under section 286-26, shall be fined not more than \$100.

In essence, he contends that the judiciary is not authorized to enforce HRS § 286-25 absent proof that HRS § 286-21 was contemporaneously violated. He further contends that a person who is cited for violating HRS 286-21 is afforded the benefits of HRS §§ 286-22 and -23. These statutes state as follows:

§ 286-21 Vehicles without required equipment or in unsafe condition. No person shall drive or cause to move on any highway any motor vehicle, trailer, semitrailer, or pole trailer, or any combination thereof, unless the equipment thereon is in good working order and adjustment as required in this part so as not to endanger the driver or other occupant or any person upon the highway.

§ 286-22 Inspection by officers of the police department.
(a) The chief of police or any police officer of any county may, at any time when the chief of police or police officer has

FOR PUBLICATION

reasonable cause to believe that a vehicle is unsafe or not equipped as required by law, require the owner or driver of the vehicle to submit the vehicle to an inspection or make the necessary corrections or repairs.

(b) If the vehicle is found to be in an unsafe condition or if any required part or equipment is not present or if any required part or equipment is present but not in proper repair, the officer shall issue a citation to the owner or driver stating the reasons that the vehicle is deemed unsafe and shall require that a new certificate of inspection as provided in section 286-26 be obtained within five days or that the defect be cured.

(c) If upon inspection, the chief of police or any police officer determines that any vehicle is in such unsafe condition as to constitute a menace to the public and cannot reasonably be restored to a safe condition as required in this part, the chief of police or police officer shall remove the sticker which signifies the certificate of inspection and inform the director of finance who shall forthwith suspend the registration of the vehicle and give notice of the suspension to its owner. Whenever the director of finance has suspended the registration of any vehicle under this part, the owner of the vehicle shall immediately surrender and forward to the director of finance the certificate of registration and the license plates last issued upon registration of the vehicle for the current year.

(d) Any person aggrieved by this section shall have the right to a hearing before a district judge of the circuit in which the person is cited within five days. The judge shall determine whether the chief of police or any police officer reasonably performed the chief of police's or police officer's duties hereunder and shall make any appropriate order.

§ 286-23 Responsibility for compliance. (a) Every owner or driver, upon receiving a citation as provided in section 286-22(b), shall comply therewith and shall within five days secure an official certificate of inspection or make the necessary corrections or repairs, or the driver may request a hearing as provided in section 286-22(d).

(b) No person shall operate any vehicle after receiving a citation with reference thereto as provided in section 286-22(b), except that if the driver is authorized to do so by the police officer, the driver may return the vehicle to the driver's residence or place of business or the residence or place of business of the owner of the vehicle, or to an automotive repair shop, if within a distance of twenty miles, until a certificate of inspection is obtained or the necessary corrections or repairs are made.

It appears that Rees fails to understand that (1) HRS § 286-21, (2) HRS §§ 286-23(b), and (3) HRS § 286-25 each specify three separate and distinct obligations and that it is possible to violate any one without violating the other two. Therefore,

FOR PUBLICATION


IT IS HEREBY ORDERED that the motion for reconsideration is denied.

DATED: Honolulu, Hawai'i, June 17, 2005.

On the motion:

Timothy C. Rees,
Defendant-Appellant


Chief Judge


Associate Judge


Associate Judge