

NO. 23638

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
GEORGE LACY MOORE, III, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT,
KONA DIVISION
(CITATION NOS. 1451610MH & 1451611MH)

MEMORANDUM OPINION

(By: Watanabe, Acting C.J., Lim and Foley, JJ.)

Defendant-Appellant George Lacy Moore, III (Moore) appeals, pro se, from the June 30, 2000, Judgment of the District Court of the Third Circuit, Kona Division¹ (district court). The district court found Moore guilty of violating Hawaii Revised Statutes (HRS) § 286-102 (1993 & Supp. 1999),² operating a motor vehicle without an operator's license, and § 291-11.6 (1993 &

¹Per diem Judge Colin L. Love presided.

²HRS § 286-102 provides in pertinent part:

§286-102 Licensing. (a) No person, except one exempted under section 286-105, one who holds an instruction permit under section 286-110, one who holds a commercial driver's license issued under section 286-239, or a commercial driver's license instruction permit issued under section 286-236, shall operate any category of motor vehicles listed in this section without first being appropriately examined and duly licensed as a qualified driver of that category of motor vehicles.

(b) A person operating the following category or combination of categories of motor vehicles shall be examined as provided in section 286-108 and duly licensed by the examiner of drivers:

- (3) . . . Passenger cars of any gross vehicle weight rating, buses designed to transport fifteen or fewer occupants, and trucks and vans having a gross vehicle weight rating of fifteen thousand pounds or less[.]

Supp. 1999),³ failing to use a seat belt. On appeal, Moore contends that the district court lacked subject matter and personal jurisdiction. We disagree with Moore's contentions and affirm the June 30, 2000, Judgment of the district court.

I. BACKGROUND

On January 13, 2000, Moore was issued two traffic citations by Kona Police Officer Joseph Hing, Jr (Hing) for operating a motor vehicle without a driver's license (in violation of HRS § 286-102) and for not using a seatbelt (in violation of HRS § 291-11.6). Moore was the sole occupant of the vehicle. Moore told Hing that Moore did not have a driver's license, the vehicle belonged to Moore's neighbor, and Moore was using the vehicle to go pick fruits. Moore refused to sign the citations, claiming he did not sign contracts. Hing noted "refused to sign" on the signature line of the each citation. The citations were placed on the dashboard of Moore's vehicle.

Moore failed to appear in court on February 14, 2000, as directed by the citations, and a bench warrant was issued. On

³HRS § 291-11.6 provides in pertinent part:

§291-11.6 Mandatory use of seat belts, when, penalty. (a) Except as otherwise provided by law, no person:

- (1) Shall operate a motor vehicle upon any public highway unless the person is restrained by a seat belt assembly and any passengers in the front seat of the motor vehicle are restrained by a seat belt assembly if between the ages of four and fifteen or are restrained pursuant to section 291-11.5 if under the age of four;

. . . .
(e) A person who fails to comply with the requirements of this section shall be subject to a fine of \$20 for each violation.

June 15, 2000, Moore was arraigned and pled not guilty to both violations. Pursuant to a bench trial on June 30, 2000, Moore was found guilty of both violations and sentenced to pay fines and fees. Moore filed his Notice of Appeal on July 27, 2000.

II. STANDARD OF REVIEW

A. Jurisdiction

The question of whether the Hawai'i courts have jurisdiction to consider matters brought before them is a question of law. State v. Lorenzo, 77 Hawai'i 219, 220, 883 P.2d 641, 642 (App. 1994) (citing United States v. Lorenzo, 995 F.2d 1448, 1456 (9th Cir.), cert. denied, 510 U.S. 881, 114 S. Ct. 225, 126 L. Ed. 2d 180, reh'g denied, 510 U.S. 1006, 114 S. Ct. 589, 126 L. Ed. 2d 487 (1993)). Questions of law are reviewable de novo applying the right/wrong standard. Lorenzo, 77 Hawai'i at 220, 883 P.2d at 642.

III. DISCUSSION

A. Subject Matter Jurisdiction

Moore contends that he has a right to be tried in a "Hawaiian National Christian civilian court" rather than a military court. He argues that because the flags in the courtroom were bordered with gold fringe, he was unlawfully subjected to a military tribunal.

Moore was tried in a civil court -- the District Court of the Third Circuit, State of Hawai'i. Hawaii Revised Statutes § 604-8 (Supp. 1999) provides, in pertinent part, as follows:

§604-8 Criminal, misdemeanors, generally. (a) District courts shall have jurisdiction of, and their criminal jurisdiction is limited to, criminal offenses punishable by fine, or by imprisonment not exceeding one year whether with or without fine. They shall not have jurisdiction over any offense for which the accused cannot be held to answer unless on a presentment or indictment of a grand jury.

Moore was convicted and sentenced by the district court for violating HRS §§ 286-102 and 291-11.6. The penalty for a violation of § 286-102 is set out in HRS § 286-136 (Supp. 1999), which provides:

§286-136 Penalty. (a) Except as provided in subsection (b), any person who violates section 286-102 . . . shall be fined not more than \$1,000 or imprisoned not more than thirty days, or both. Any person who violates any other section in this part shall be fined not more than \$1,000.

(b) Any person who is convicted of violating section 186-102 . . . shall be subject to a maximum fine of \$1,000, or imprisoned not more than one year, or both, if the person has two or more prior convictions for the same offense in the preceding five-year period.

Hawaii Revised Statutes § 291-11.6(e) (Supp. 1999) provides that "[a] person who fails to comply with the requirements of this section shall be subject to a fine of \$20 for each violation."

Upon his conviction, Moore was subject to the punishments set forth in HRS § 286-136(a) and § 291-11.6(e). The district court had jurisdiction in this matter.

B. Personal Jurisdiction

Moore contends that the district court lacked personal jurisdiction because: (1) Moore did not sign the citation and (2) the district court did not serve a formal complaint by a disinterested third party pursuant to Hawaii Rules of Penal Procedure (HRPP) Rule 9.⁴

Hawaii Revised Statutes § 291D-5 (1993) governs the notice required for traffic violations and provides:

§291D-5 Notice of traffic infraction; form; determination final unless contested. (a) The notice of traffic infraction shall include the complaint and summons for the purposes of this chapter. Whenever a notice of traffic infraction is issued to the driver of a motor vehicle, the driver's signature, driver's license number and current address shall be affixed to the notice. If the driver refuses to sign the notice, the officer shall record this refusal on the notice and issue the notice to the driver. Individuals to whom a notice of traffic infraction is issued under this chapter need not be arraigned before the court, unless required by rule of the supreme court.

The two citations that were placed upon Moore's dashboard were labeled "COMPLAINT & SUMMONS" at the top in white capital letters on a black background. The lower portion of each citation was printed in red ink and labeled "SUMMONS." Also printed in red ink were the words: "Your court appearance date is: DATE_____ TIME___ AM" and "District Court of____[.]"

⁴HRPP Rule 9 provides, in pertinent part:

Rule 9. OBTAINING THE APPEARANCE OF DEFENDANT.

. . . .

(c) Execution or Service and Return.

(1) By Whom. A warrant shall be executed by a police officer or by some other officer authorized by law. A summons may be served by a police officer or by any person who is not the complaining witness and who is not less than 18 years of age.

The issuing officer handwrote "Feb 14, 2000[,]" "0830" and "Kona" to indicate the date, time, and district court. Moore was properly served.

Moore also contends the district court lacked personal jurisdiction because he is a Hawaiian National and subject to the 1839 Declaration of Rights, the 1864 Hawaiian Constitution, and article VI of the United States Constitution.⁵ Hawaii Revised Statutes § 701-106 (1993) provides:

§701-106 Territorial applicability. (1) Except as otherwise provided in this section, a person may be convicted under the law of this State of an offense committed by the person's own conduct or the conduct of another for which the person is legally accountable if:
(a) Either the conduct or the result which is an element of the offense occurs within this State[.]

Moore committed the voluntary acts of driving without a driver's license and driving without the use of seat belts, violating Hawai'i's traffic laws. These acts occurred within the State of Hawai'i. Hawaii Revised Statutes § 286-102 requires a license to be obtained by all persons driving passenger cars upon the roadways of the state regardless of citizenship. Hawaii Revised Statutes § 291-11.6(a)(1) states that "no person: (1) [s]hall operate a motor vehicle upon any public highway unless the person is restrained by a seat belt assembly[.]" Both statutes apply to Moore as the driver of a vehicle upon the State

⁵ ARTICLE VI

. . . .
The Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land[.]

of Hawai'i's roads, and Moore was cited and served for violating these statutes. The district court had personal jurisdiction over Moore.

Moore's remaining arguments are equally without merit. Moore contends that the State is unwilling to spell his name correctly. However, other than Moore's signature on his Opening Brief and Reply Brief as "George Lacy," the record does not include evidence that Moore's name is spelled incorrectly.

Moore also contends the State's requirement that a person have a social security number in order to obtain a driver's license is unconstitutional. Moore states he has no social security card. There is nothing in the record to indicate Moore was refused a driver's license because he lacked a social security number.

IV. CONCLUSION

Based on the foregoing, the June 30, 2000, Judgment of the District Court of the Third Circuit is affirmed.

DATED: Honolulu, Hawai'i, December 28, 2001.

On the briefs:

George Lacy Moore, III
defendant-appellant pro se.

Acting Chief Judge

Frederick Giannini,
Deputy Prosecuting Attorney,
County of Hawai'i,
for plaintiff-appellee.

Associate Judge

Associate Judge