

NOT FOR PUBLICATION

NO. 27288

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

STATE OF HAWAI'I, Plaintiff-Appellant, v.
BRENDA L. CORDY, Defendant-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CR. NO. 04-1-0502(2))

SUMMARY DISPOSITION ORDER

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

The State of Hawai'i (the State) appeals the April 19, 2005 findings of fact, conclusions of law and order of the Circuit Court of the Second Circuit (circuit court)¹ that granted in part and denied in part Defendant Brenda L. Cordy's [Defendant] November 15, 2004 motion to suppress evidence and statements.

After a diligent review of the record and the briefs submitted by the parties, and giving careful consideration to the arguments advanced and the issues raised by the parties, we decide that the circuit court was right in granting Defendant's motion to suppress evidence, State v. Ramos, 93 Hawai'i 502, 507, 6 P.3d 374, 379 (App. 2000) ("[w]e review a ruling on a motion to suppress *de novo* in order to determine whether it was right or wrong as a matter of law" (citation omitted)), because the police officer lacked "a reasonable suspicion that [Defendant] was engaged in criminal conduct" before he stopped Defendant's

¹ The Honorable Shackley F. Raffetto presided.

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vehicle. State v. Eleneki, 106 Hawai'i 177, 180, 102 P.3d 1075, 1078 (2004) (emphasis, citation and internal quotation marks omitted). See also State v. Bolosan, 78 Hawai'i 86, 94, 890 P.2d 673, 681 (1995). This being so, the evidence collected as a result of the unconstitutional stop was correctly suppressed. Eleneki, 106 Hawai'i at 178, 102 P.3d at 1076 ("where the stop of the vehicle constituted an unreasonable seizure, the evidence so obtained was inadmissible" (brackets, ellipsis, citation and internal quotation marks omitted)); State v. Kearns, 75 Haw. 558, 572, 867 P.2d 903, 909-10 (1994) ("all evidence obtained as a result of the [unreasonable] seizure should have been suppressed"); Ramos, 93 Hawai'i at 513, 6 P.3d at 385 ("any evidence seized as a result of the [unlawful detention] should have been suppressed" (citing State v. Kachanian, 78 Hawai'i 475, 483, 896 P.2d 931, 939 (App. 1995))). Inasmuch as Defendant did not cross-appeal or otherwise challenge the circuit court's denial of her motion to suppress statements, that part of the April 19, 2005 order shall stand affirmed as well. Arthur v. Sorensen, 80 Hawai'i 159, 167, 907 P.2d 745, 753 (1995) ("an appellee is not ordinarily entitled to attack a judgment without a cross appeal" (citations omitted)).

Therefore,

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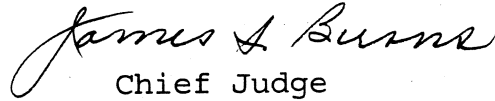
IT IS HEREBY ORDERED that the circuit court's April 19, 2005 findings of fact, conclusions of law and order are affirmed.

DATED: Honolulu, Hawai'i, June 14, 2006

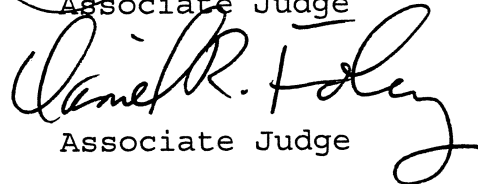
On the briefs:

Arleen Y. Watanabe,
Deputy Prosecuting Attorney,
County of Maui,
for Plaintiff-Appellant.

Phyllis J. Hironaka,
Deputy Public Defender,
for Defendant-Appellee.


Chief Judge


Associate Judge


Associate Judge