

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 29864

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
KEVIN WRIGHT, Defendant-Appellant

KHAMAKADO  
CLERK, APPELLATE COURTS  
STATE OF HAWAI'I

2010 APR -9 AM 7:53

FILED

APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT  
WAILUKU DIVISION  
(Case Nos. 0893497MM & 0894033MM)

SUMMARY DISPOSITION ORDER

(By: Nakamura, C.J., Fujise and Leonard, JJ.)

Defendant-Appellant Kevin Wright (Wright) appeals the Judgments, entered on May 6, 2009, in the District Court of the Second Circuit, Wailuku Division (district court) in Case Nos. 0893497MM and 0894033MM.<sup>1</sup>

Wright entered conditional guilty pleas and was convicted of Driving Without a License, in violation of Hawaii Revised Statutes (HRS) § 286-102 (2007) and No No-Fault Insurance, in violation of HRS § 431:10G-102 (2005).

On appeal, Wright contends that the district court erred by denying his motion, made pursuant to Rule 9 of the Hawai'i Rules of Penal Procedure (HRPP), to dismiss the charges for failure to serve an arrest warrant without "unnecessary delay," and violation of his due process rights under the United States and Hawai'i Constitutions.

The State agrees that the district court abused its discretion by not dismissing the charges in violation of HRPP Rule 9.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we resolve Wright's points of error as follows:

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<sup>1</sup> The Honorable Kelsey Kawano presided.

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The State failed to show that the warrant was served without unnecessary delay, pursuant to HRPP Rule 9. State v. Owens, 116 Hawai'i 172, 178-79, 172 P.3d 484, 489-90 (2007); State v. Mageo, 78 Hawai'i 33, 37-38, 889 P.2d 1092, 1096-97 (App. 1995). Because the district court abused its discretion by not dismissing the charges against Wright for the State's failure to comply with HRPP Rule 9, we need not address Wright's claim that his due process rights were violated.

Therefore,

The Judgments, entered on May 6, 2009, in the District Court of the Second Circuit, Wailuku Division in Case Nos. 0893497MM and 0894033MM are reversed.


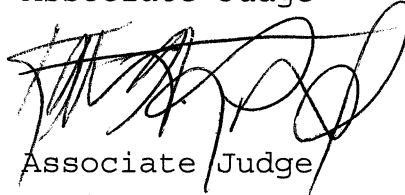
DATED: Honolulu, Hawai'i, April 9, 2010.

On the briefs:

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

  
Chief Judge

Richard K. Minatoya,  
Deputy Prosecuting Attorney,  
County of Maui,  
for Plaintiff-Appellee.

  
Associate Judge  
  
Associate Judge