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Intermediate Court of Appeals
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NO. CAAP-10-000035

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
CARL EDWARD LEDUNE, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT
KONA DIVISION
(CASE NO. 3DTA-10-00859; REPORT NO. C10006564)

SUMMARY DISPOSITION ORDER

(By: Fujise, Presiding Judge, Leonard and Ginoza, JJ.)

Defendant-Appellant Carl Edward Ledune (**Ledune**) appeals from the Judgment and Notice of Entry of Judgment (**Judgment**), filed on August 31, 2010, in the District Court of the Third Circuit (**District Court**).^{1/} Ledune was convicted of Operating a Vehicle Under the Influence of an Intoxicant, in violation of Hawaii Revised Statutes (**HRS**) § 291E-61(a) (Supp. 2010) and Driving without a License, in violation of HRS § 286-102(b) (Supp. 2010).

On appeal, Ledune contends there was insufficient evidence to convict him of Operating a Vehicle Under the Influence of an Intoxicant.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to

^{1/} The Honorable Joseph P. Florendo presided.

the arguments advanced and the issues raised by the parties, we resolve Ledune's point of error as follows:

Contrary to Ledune's claim, there was substantial evidence to support Ledune's conviction for Operating a Vehicle under the Influence of an Intoxicant. Officer Andrade's testimony was found by the District Court to be credible. Officer Andrade testified, *inter alia*, that Ledune crossed the solid yellow centerline of the road three times and made a wide right turn so as to end up in an oncoming lane before he was stopped. Officer Andrade stated that Ledune's eyes were red, watery, and glassy, which he believed were signs that Ledune was under the influence of an intoxicant. Officer Andrade smelled a strong odor of alcohol emanating from Ledune. Officer Andrade observed that Ledune's conduct after the stop was uncooperative and somewhat aggressive. Ledune refused to perform field sobriety tests. There was also testimony presented that Ledune was earlier seen drinking four shots of Jagermeister. When the evidence adduced at trial is considered in the strongest light for the prosecution, there was sufficient evidence to support Ledune's conviction that he was under the influence of an intoxicant in an amount sufficient to impair Ledune's normal mental faculties or ability to care for himself and guard against casualty. See, e.g., State v. Gaston, 108 Hawai'i 308, 119 P.3d 616 (App. 2005) (upholding sufficiency of evidence of driving under the influence); State v. Mitchell, 94 Hawai'i 388, 15 P.3d 314 (2000) (same).

Accordingly, the District Court's August 31, 2010 Judgment is affirmed.

DATED: Honolulu, Hawai'i, June 8, 2011

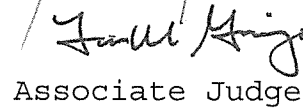
On the briefs:

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Presiding Judge


Associate Judge


Associate Judge