

NO. 22500

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee

vs.

SEAN LYONS, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(TRAFFIC NOS. 98292689, 98292796, 98292797)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama,
Ramil, and Acoba, JJ.)

Defendant-appellant Sean Lyons appeals from the judgment of conviction and sentence for one count of driving under the influence of intoxicating liquor (DUI) in violation of Hawai'i Revised Statutes (HRS) § 291-4 (Supp. 1998). On appeal, he argues that the district court: 1) erred in denying his motion to suppress evidence; 2) abused its discretion in denying his motion to set aside the stipulation to the results of the breath test; and 3) erred in convicting him of DUI where there was insufficient evidence.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments made and the issues raised by the parties, we resolve defendant-appellant's arguments as follows: 1) the district court did not err in denying the motion to suppress because the police had reasonable suspicion based upon specific and articulable facts justifying the stop of Lyons's car, and the

district court did not apply the wrong burden of proof in the motion to suppress; 2) the district court did not abuse its discretion in denying Lyons's motion to set aside the stipulation because the stipulation was not the equivalent of a change of plea and did not deprive Lyons of his right to the effective assistance of counsel; and 3) there was sufficient evidence to support Lyons's conviction of DUI under HRS § 291-4(a)(2).

THEREFORE, IT IS HEREBY ORDERED that the district court's judgment of conviction is hereby affirmed.

DATED: Honolulu, Hawai'i, July 27, 2000.

On the briefs:

Shirley M. Kawamura, Deputy
Public Defender, for
defendant-appellant

Mangmang Qui Brown, Deputy
Prosecuting Attorney, for
plaintiff-appellee