

*** NOT FOR PUBLICATION ***

NO. 23995

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellant

vs.

GARTH M. COLEMAN, Defendant-Appellee

APPEAL FROM THE THIRD CIRCUIT COURT
(CR. NO. 00-1-0021K)

SUMMARY DISPOSITION ORDER

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

Plaintiff-appellant the State of Hawai'i [hereinafter, "the prosecution"] appeals from the December 18, 2000 findings of fact, conclusions of law, and order of the circuit court of the third circuit, the Honorable Ronald Ibarra presiding, granting the defendant-appellee Garth M. Coleman's motion to suppress his blood samples and the results of his blood test and preclude their use at trial. The prosecution argues that the exclusionary rule of State v. Wilson, 92 Hawai'i 45, 987 P.2d 268 (1999), is inapplicable because the instant case involved a traffic collision resulting in injury, and, thus, a blood test was authorized pursuant to Hawai'i Revised Statutes (HRS) § 286-163, notwithstanding the technical violation of HRS § 286-151.

Upon carefully reviewing the record and the briefs submitted and having given due consideration to the arguments advanced and the issues raised, we hold that the circuit court erred by granting Coleman's motion to suppress evidence, inasmuch as the police were authorized to take a blood sample pursuant to HRS § 286-163 from Coleman as the driver of a vehicle in a collision that resulted in injury and the police had probable cause to believe that Coleman was driving under the influence of

*** NOT FOR PUBLICATION ***

intoxicating liquor. State v. Entrekin, 98 Hawai'i 221, 47 P.3d 339 (2002).¹ Therefore,

IT IS HEREBY ORDERED that the circuit court's findings of fact, conclusions of law, and order granting motion to suppress evidence, from which the appeal is taken, are vacated, and the case is remanded for further proceedings.

DATED: Honolulu, Hawai'i, October 24, 2003.

On the briefs:

Dale Yamada Ross,
Deputy Prosecuting Attorney,
for plaintiff-appellant
State of Hawai'i

Rose Anne Fletcher,
Deputy Public Defender,
for defendant-appellee
Garth M. Coleman

¹ It should be noted that State v. Entrekin, 98 Hawai'i 221, 47 P.3d 339 (2002), was filed after the parties submitted their briefs.