

*** NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER ***

NO. 26192

IN THE SUPREME COURT OF THE STATE OF HAWAII

CURTIS C. CUSTER, Petitioner-Appellant,

vs.

ADMINISTRATIVE DIRECTOR OF THE COURTS, STATE OF HAWAII,
Respondent-Appellee

KHAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2006 OCT 31 AM 10:21

FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(JR03-0019; Original Case No. 03-00586)

SUMMARY DISPOSITION ORDER

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

Petitioner-Appellant Curtis C. Custer ("Custer")
appeals from the Judgment on Appeal of the District Court of the
First Circuit¹ ("district court") filed on October 10, 2003,
which affirmed Respondent-Appellee Administrative Director of the
Courts' one-year revocation of Custer's driver's license.

On appeal, Custer argues that the district court erred
by: (1) affirming the license revocation decision of the
Administrative Driver's License Revocation Office ("ADLRO"),
because ADLRO lacked jurisdiction over Custer due to the
arresting officer's dismissal of the license revocation
proceeding against him; (2) holding that Custer had not been
"denied both his [constitutional] rights to a hearing on the
ADLRO access restrictions [apparently requiring that all
prospective attendees, including the hearing respondent and his
counsel, sign in and present identification in order to attend a

¹ The Honorable Fa'auuga To'oto'o presided.

ADLRO hearing] and his rights to a public hearing . . . []"; (3) holding that Custer had not been denied due process of law despite the fact that ADLRO review hearings from an ADLRO license revocations are conducted (a) in de novo fashion, and (b) without following any established procedure, in violation of the Hawai'i and U.S. Constitutions and Hawai'i Revised Statutes ("HRS") §§ 291E-31 through 291E-50 (administrative license revocation process); (4) holding that the "HPD-396B" implied consent form (for alcohol content or drug testing) was not fatally defective in (a) failing to inform Custer that he had a legal right to withdraw his consent to alcohol or drug testing, (b) failing to fully inform Custer of the necessary requirements for ADLRO to revoke a driver's license, where an alcohol or drug test is refused, and (c) failing to inform Custer that a revocation of his driver's license would also deprive him of the ability to use a moped or a watercraft; (5) holding that HRS § 291E-34(a)(2) (Supp. 2001)² (requiring that a notice of administrative revocation of a driver's license explain in "clear language" the distinction between an administrative revocation and a criminal

² HRS § 291E-34(a)(2) (Supp. 2001) provides in pertinent part:

(a) The notice of administrative revocation shall provide, at a minimum and in clear language, the following general information relating to administrative revocation:

.

(2) An explanation of the distinction between administrative revocation and a suspension or revocation imposed under section 291E-61 or 291E-61.5

license suspension or revocation pursuant to HRS § 291E-61 (Supp. 2003)³ (which prohibits operating a vehicle under the influence of an intoxicant)) had not been violated; and (6) failing to reverse the ADLRO hearing officer's ruling on account of the hearing officer's improper citation of unpublished district court opinions arising from ADLRO appeals.

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised, we hold that all six of Custer's arguments in the instant appeal have been previously addressed by this court and found to be without merit.⁴ As such, the district court's Judgment on Appeal is

³ HRS § 291E-61 (Supp. 2003) was in effect at the time of Custer's March 7, 2003 arrest.

⁴ See e.g.,

As to Argument No. 1 in the instant appeal: See Custer v. Admin. Dir. of the Courts, 108 Hawai'i 350, 358, 120 P.3d 249, 257 (2005).

As to Argument No. 2 in the instant appeal: See Freitas v. Admin. Dir. of the Courts, 108 Hawai'i 31, 40, 116 P.3d 673, 682 (2005).

As to Argument No. 3 in the instant appeal: See id. at 44-45, 116 P.3d at 686-87); see also Dunaway v. Admin. Dir. of the Courts, 108 Hawai'i at 78, 83, 117 P.3d 109, 114 (2005).

As to Argument No. 4 in the instant appeal: See id. at 85-87, 117 P.3d at 115-17.

As to Argument No. 5 in the instant appeal: See id. at 87, 117 P.3d at 118.

As to Argument No. 6 in the instant appeal: See Freitas, 108 Hawai'i at 46-47, 116 P.3d at 688-89.

As to Arguments Nos. 2 through 6 of the instant appeal, see also Custer, 108 Hawai'i at 353-54, 120 P.3d at 252-53.

affirmed. Therefore,

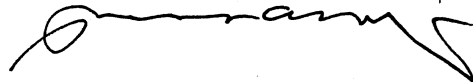
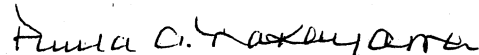
IT IS HEREBY ORDERED that the Judgment on Appeal of the district court is affirmed.

DATED: Honolulu, Hawai'i, October 31, 2006.

On the briefs:

Earle A. Partington
for Petitioner-Appellant
Curtis C. Custer

Girard D. Lau,
Deputy Attorney General,
for Respondent-Appellee
Administrative Director of
the Courts, State of Hawai'i



Kama E. Duggi, Jr.