

INTERMEDIATE COURT OF APPEALS OF THE STATE OF HAWAI‘I

State v. Rivero-Garcia

Rivero-Garcia · No. CAAP-XX-XXXXXXX · Decided June 3, 2026

SUMMARY

The Hawai‘i Intermediate Court of Appeals reversed an order denying Natanhael Rivero-Garcia’s motion to strike compliance review hearings in an operating a vehicle under the influence of an intoxicant case. The court held that the district court exceeded its authority under Hawai‘i Revised Statutes § 291E-61 by requiring the defendant to appear for compliance review hearings, which were akin to probation. The court also applied the collateral order exception to exercise appellate jurisdiction over the otherwise interlocutory order.

CASE DETAILS

COURT	Intermediate Court of Appeals of the State of Hawai‘i
WRITING FOR THE COURT	Keith K. Hiraoka, J.; Karen T. Nakasone, Chief Judge; Keith K. Hiraoka, Associate Judge; Clyde J. Wadsworth, Associate Judge
JURISDICTION	Intermediate Court of Appeals of the State of Hawai‘i
DECIDED	June 3, 2026
DOCKET	CAAP-XX-XXXXXXX
DISPOSITION	reversed
PROCEDURAL POSTURE	Defendant appealed from the district court's order denying his motion to strike compliance review hearings imposed in connection with an OVUII sentence.
STANDARD OF REVIEW	Conclusions of law are reviewed de novo. Appellate jurisdiction is independently examined by the court.
PRECEDENTIAL VALUE	published
PARTIES	Natanhael Rivero-Garcia v. State of Hawai‘i

TOPICS

appellate jurisdictioninterlocutory appealcriminal proceduresentencingstatutory interpretation

PRACTICE AREAS

criminal lawappellate proceduresentencingstatutory interpretation

QUESTIONS PRESENTED

1. Whether the Intermediate Court of Appeals had jurisdiction to review an interlocutory order denying a motion to strike compliance review hearings when the initial judgment was not final and the defendant did not appeal from the later amended judgment.
2. Whether HRS § 291E-61 authorizes a district court to require an OVUII defendant to appear at compliance review hearings concerning substance-abuse assessment, treatment, and a drug demand reduction assessment.
3. Whether the district court could impose a one-year deadline for completion of substance-abuse assessment and treatment as a condition for waiver of the drug demand reduction assessment.

HOLDINGS

1. The court had jurisdiction under the collateral order exception because the order fully disposed of the compliance-hearing issue, that issue was collateral to the merits of the conviction and sentence, and the defendant's right to obtain review could be irreparably lost if review awaited a final judgment.
2. HRS § 291E-61(h) does not authorize a district court to require an OVUII defendant to appear for compliance review hearings concerning substance-abuse assessment, treatment, or the drug demand reduction assessment.
3. The district court may not impose an arbitrary one-year deadline for completing substance-abuse assessment or any recommended treatment as a condition for waiver or reduction of the drug demand reduction assessment.

KEY QUOTATIONS

"[U]nder the collateral order exception, an interlocutory order is appealable if it: (1) fully disposes of the question at issue; (2) resolves an issue completely collateral to the merits of the case; and (3) involves important rights which would be irreparably lost if review had to await a final judgment." (at 4–5)

"Unless the person defaults, the law doesn't permit the district court to do anything. The criminal case is over. HRS § 706-644(1) only allows restitution compliance hearings upon a default, then a motion, then a hearing. Setting a compliance hearing at the outset precociously upends the statutory process." (at 7–8)

FACTUAL BACKGROUND

Rivero-Garcia was charged with highly intoxicated-driver OVUII but pleaded no contest to the lesser offense of first-offense OVUII. The district court sentenced him to substance-abuse assessment and treatment and imposed a \$250 drug demand reduction assessment subject to being taken under advisement and potentially waived after completion of assessment and treatment. The court scheduled repeated compliance review hearings, although the governing statutes did not specify a deadline for completing the assessment or treatment. Before the amended judgment was entered, Rivero-Garcia completed the assessment, no treatment was recommended, and the court waived the fee.

PROCEDURAL HISTORY

Rivero-Garcia pleaded no contest to first-offense OVUII under a plea agreement. The district court ordered substance-abuse assessment and treatment and took the statutory \$250 drug demand reduction assessment under advisement for one year, subject to waiver upon successful completion of the required assessment and treatment, while also scheduling compliance review hearings. The district court denied Rivero-Garcia's motion to strike the hearings. He appealed that order; the Intermediate Court of Appeals exercised jurisdiction under the collateral order exception and reversed.

DISPOSITION

reversed

CASES CITED

- Ditto v. McCurdy, 103 Hawai'i 153, 157, 80 P.3d 974, 978 (2003)
- State v. Kilborn, 109 Hawai'i 435, 441–42, 127 P.3d 95, 101–02 (App. 2005)
- State v. Baranco, 77 Hawai'i 351, 353–54, 884 P.2d 729, 731–32 (1994)
- Hamilton ex rel. Lethem v. Lethem, 119 Hawai'i 1, 5–8, 193 P.3d 839, 843–46 (2008)
- State v. Fay, 154 Hawai'i 305, 307–08, 550 P.3d 1163, 1165–66 (2024)
- Cowan v. Exclusive Resorts PBL1, LLC, 156 Hawai'i 268, 272, 574 P.3d 288, 292 (2025)

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