

SUPREME COURT OF THE STATE OF HAWAI‘I

State v. Celestine

415 P.3d 907 (Haw. 2018) · No. SCWC-14-0000335 · Decided April 12, 2018

SUMMARY

The Supreme Court of Hawai‘i held that the district court failed to conduct an adequate Tachibana colloquy before accepting Ritalynn Moss Celestine’s waiver of her constitutional right to testify. The court concluded that the error was not harmless beyond a reasonable doubt and vacated her conviction under HRS § 291E-61(a)(1). It also vacated the conviction under HRS § 291E-61(a)(3) pursuant to State v. Won and remanded for further proceedings.

CASE DETAILS

COURT	Supreme Court of the State of Hawai‘i
WRITING FOR THE COURT	Richard W. Pollack, J.; Sabrina S. McKenna, J.; Michael D. Wilson, J.; Mark E. Recktenwald, C.J., dissenting; Mark J. Nakayama, J., dissenting
JURISDICTION	Hawaii
DECIDED	April 12, 2018
DOCKET	SCWC-14-0000335
DISPOSITION	vacated
PROCEDURAL POSTURE	Celestine sought review by certiorari of the Intermediate Court of Appeals' summary disposition affirming her District Court conviction for operating a vehicle under the influence of an intoxicant.
STANDARD OF REVIEW	The validity of a criminal defendant’s waiver of the constitutional right to testify is reviewed under the right/wrong standard.
PRECEDENTIAL VALUE	published and precedential
PARTIES	Ritalynn Moss Celestine v. State of Hawai‘i

TOPICS

[criminal procedure](#) [fifth amendment](#) [appellate procedure](#) [harmless error](#) [suppression of evidence](#)

PRACTICE AREAS

[criminal procedure](#) [constitutional law](#) [appellate procedure](#) [evidence](#)

QUESTIONS PRESENTED

1. Whether the district court obtained a valid, knowing, intelligent, and voluntary waiver of Celestine’s constitutional right to testify through its Tachibana colloquy.
2. Whether the district court’s deficient Tachibana colloquy was harmless beyond a reasonable doubt.
3. Whether Celestine’s conviction under HRS § 291E-61(a)(3) could stand in light of State v. Won and the involuntariness of consent to the breath test.

HOLDINGS

1. A Tachibana colloquy is constitutionally inadequate when the trial court advises the defendant of the right to testify and the right not to testify but fails to engage in a true verbal exchange sufficient to ascertain the defendant’s understanding of those rights and whether the decision not to testify is made with that understanding. The record therefore did not establish that Celestine knowingly, intelligently, and voluntarily waived her right to testify.
2. Once a violation of the constitutional right to testify is established, the conviction must be vacated unless the State proves the violation was harmless beyond a reasonable doubt. The State failed to meet that burden because it was not knowable whether Celestine’s testimony could have established reasonable doubt as to the HRS § 291E-61(a)(1) charge.
3. Celestine’s conviction under HRS § 291E-61(a)(3) also had to be vacated under State v. Won because the threat of criminal sanctions precluded a finding that her consent to the breath test was voluntary.

KEY QUOTATIONS

“To protect the fundamental right to testify, this court in Tachibana v. State established the requirement that when a defendant in a criminal case indicates an intention not to testify, the trial court must advise the defendant of the right to testify and must obtain an on-the-record waiver of this right.” (at 7)

“The constitutional right to testify is violated when the Tachibana colloquy is inadequate to provide an “objective basis” for finding the defendant “knowingly, intelligently, and voluntarily” relinquished his or her right to testify.” (at 10)

“Once a violation of the constitutional right to testify is established, the conviction must be vacated unless the State can prove that the violation was harmless beyond a reasonable doubt.” (at 17)

FACTUAL BACKGROUND

An officer found Celestine’s vehicle in a planter area after it appeared to have jumped a curb. The officer observed an odor of alcohol, red and glassy eyes, and field-sobriety-test clues suggesting intoxication. Celestine’s breath test showed 0.098 grams of alcohol per 210 liters of breath, and she declined a blood test. At trial, after the State rested, the district court conducted a Tachibana colloquy before Celestine declined to testify.

PROCEDURAL HISTORY

Celestine was charged in the District Court of the First Circuit with operating a vehicle under the influence of an intoxicant under HRS § 291E-61(a)(1) and/or (a)(3). After a bench trial, the district court denied her motion to

suppress the breath-test results, found her guilty, and imposed sentence. The Intermediate Court of Appeals affirmed in a summary disposition order. The Hawai‘i Supreme Court granted certiorari, vacated the ICA judgment and the district court judgments, and remanded for further proceedings.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The case was remanded to the District Court of the First Circuit for further proceedings after vacatur of the ICA judgment and the district court judgments.

CASES CITED

- State v. Gomez-Lobato, 130 Hawai‘i 465, 312 P.3d 897 (2013)
- State v. Monteil, 134 Hawai‘i 361, 341 P.3d 567 (2014)
- State v. Pomroy, 132 Hawai‘i 85, 319 P.3d 1093 (2014)
- Tachibana v. State, 79 Hawai‘i 226, 900 P.2d 1293 (1995)
- State v. Han, 130 Hawai‘i 83, 306 P.3d 128 (2013)
- State v. Lewis, 94 Hawai‘i 292, 12 P.3d 1233 (2000)
- State v. Eduwensuyi, 141 Hawai‘i 328, 409 P.3d 732 (2018)
- State v. Schnabel, 127 Hawai‘i 432, 279 P.3d 1237 (2012)
- State v. Won, 137 Hawai‘i 330, 372 P.3d 1065 (2015)