

SUPREME COURT OF HAWAI‘I

State v. Ruggiero

114 Hawai‘i 227, 160 P.3d 703 (2007) · No. No. 26940 · Decided June 5, 2007

SUMMARY

The Supreme Court of Hawai‘i held that Hawai‘i Revised Statutes § 291E-61 creates status offenses for repeat DUI violations, so a prior conviction need only have been valid when the subsequent offense was committed. However, the prior conviction was an essential element that had to be alleged in the charging complaint and proven beyond a reasonable doubt. Because the complaint did not allege the prior conviction, the court vacated Ruggiero’s second-offender DUI conviction and sentence and remanded for entry of a conviction and sentence as a first-time offender.

CASE DETAILS

COURT	Supreme Court of Hawai‘i
WRITING FOR THE COURT	Levinson, J.; Duffy, J.; Nakayama, J.; Moon, C.J.; Acoba, J.
JURISDICTION	Hawaii
DECIDED	June 5, 2007
DOCKET	No. 26940
DISPOSITION	vacated
PROCEDURAL POSTURE	Ruggiero appealed his district-court conviction and sentence for operating a vehicle under the influence of an intoxicant as a second-time offender. He argued that a prior DUI conviction could not support enhanced treatment because it had been reversed after his current arrest but before his conviction and sentencing.
STANDARD OF REVIEW	Statutory interpretation is reviewed de novo. The court reviewed the unpreserved constitutional and charging-defect issues for plain error.
PRECEDENTIAL VALUE	Published Hawai‘i Supreme Court opinion; the lead opinion is a plurality opinion with separate concurring and dissenting opinions.
PARTIES	Adam Ruggiero v. State of Hawai‘i

TOPICS

- criminal procedure
- statutory interpretation
- due process
- appellate procedure
- sentencing

PRACTICE AREAS

criminal law

criminal procedure

DUI

statutory interpretation

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether HRS § 291E-61(b)(1)-(3), as amended in 2003, creates separate status offenses or merely sentencing enhancements.
2. Whether a prior DUI conviction that was valid when the new offense was committed but reversed before adjudication and sentencing may support a second-offense DUI conviction or sentence.
3. Whether the complaint was sufficient to charge second-offense DUI when it did not allege the prior conviction.
4. Whether the complaint could support entry of judgment for first-offense DUI despite not expressly alleging the absence of prior convictions.

HOLDINGS

1. The 2003 amendments to HRS § 291E-61 transformed the offenses described in subsection (b)(1)-(3) into separate status offenses, with the defendant's qualifying prior-conviction status determined as of the time of the subsequent offense.
2. Because HRS § 291E-61(b)(1)-(3) are status offenses, a prior conviction need only have been valid and not reversed, set aside, or expunged at the time of the subsequent offense; its later reversal did not invalidate the status classification.
3. The qualifying prior conviction under HRS § 291E-61(b)(2) is an attendant circumstance intrinsic to the offense and therefore an essential element that must be alleged in the charging instrument and proved beyond a reasonable doubt at trial.
4. The complaint was legally insufficient to charge Ruggiero with second-offense DUI under HRS § 291E-61(a) and (b)(2) because it did not allege the qualifying prior conviction.
5. The complaint could reasonably be construed to charge first-offense DUI under HRS § 291E-61(a) and (b)(1), permitting remand for entry of a first-offense judgment and resentencing.

KEY QUOTATIONS

“Both the plain language of and the legislative history surrounding the 2003 amendments, accordingly, reflect a clear legislative intent that HRS § 291E-61(b)(1) to (3) be treated as separate status offenses.” (160 P.3d 713)

“The complaint charging Ruggiero with a violation of HRS § 291E-61 was silent with respect to the attendant circumstance of any prior conviction” (160 P.3d 715)

“We therefore vacate his conviction of and sentence for driving under the influence for the second time within a five-year period” (160 P.3d 717)

FACTUAL BACKGROUND

Ruggiero was arrested for a new DUI on March 10, 2004, while his appeal from a January 29, 2003 DUI conviction was pending. On March 19, 2004, the Supreme Court of Hawai‘i reversed the prior conviction for failure of proof of an essential element. Ruggiero's current complaint alleged DUI under HRS § 291E-61 but did not allege any prior DUI conviction; nevertheless, the district court used the prior conviction to classify him as a second-time offender and imposed enhanced penalties.

PROCEDURAL HISTORY

Ruggiero was arrested for DUI on March 10, 2004, while an appeal from a prior DUI conviction was pending. The prior conviction was reversed nine days later. The district court convicted Ruggiero after a bench trial and sentenced him as a second-time offender under HRS § 291E-61(b)(2), relying on the prior conviction. The Supreme Court of Hawai‘i vacated the second-offense conviction and sentence, remanded for entry of judgment for a first-time DUI offense and resentencing, and affirmed the remaining unchallenged convictions.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Vacate the district court's judgment and sentence insofar as they imposed a second-offense DUI conviction and sentence under HRS § 291E-61(a) and (b)(2). Remand for entry of judgment convicting Ruggiero of DUI with no prior offenses under HRS § 291E-61(a) and (b)(1), and for resentencing accordingly. Affirm the judgment as to the unchallenged convictions in Counts II, III, and IV.

CASES CITED

- State v. Cummings, 101 Hawai‘i 139, 63 P.3d 1109 (2003)
- State v. Domingues, 106 Hawai‘i 480, 107 P.3d 409 (2005)
- State v. Elliott, 77 Hawai‘i 309, 884 P.2d 372 (1994)
- State v. Israel, 78 Hawai‘i 66, 890 P.2d 303 (1995)
- State v. Jendrusch, 58 Haw. 279, 567 P.2d 1242 (1977)
- State v. Koch, 107 Hawai‘i 215, 112 P.3d 69 (2005)
- State v. Lobendahn, 71 Haw. 111, 784 P.2d 872 (1989)
- State v. Motta, 66 Haw. 89, 657 P.2d 1019 (1983)
- State v. Shimabukuro, 100 Hawai‘i 324, 60 P.3d 274 (2002)
- State v. Tafoya, 91 Hawai‘i 261, 982 P.2d 890 (1999)
- State v. Veikoso, 102 Hawai‘i 219, 74 P.3d 575 (2003)
- State v. Valdivia, 95 Hawai‘i 465, 24 P.3d 661 (2001)
- State v. Arceo, 84 Hawai‘i 1, 928 P.2d 843 (1996)
- State v. Wells, 78 Hawai‘i 373, 894 P.2d 70 (1995)
- State v. Holbron, 80 Hawai‘i 27, 904 P.2d 912 (1995)

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