

# SUPREME COURT OF HAWAII

## State of Hawai'i v. Amanaki L. Veikoso

State v. Veikoso, 102 Hawai'i 219, 74 P.3d 575 (2003) · No. No. 25182 · Decided August 11, 2003

### SUMMARY

The Supreme Court of Hawai'i affirmed Amanaki L. Veikoso's conviction for habitual driving under the influence. The court held that prior DUI convictions count under HRS § 291-4.4 unless they have been expunged, reversed, or set aside, and that a defendant may not collaterally attack counseled prior convictions based on allegedly invalid guilty pleas in proceedings for a subsequent habitual DUI offense. Such challenges must instead be raised through a direct attack or post-conviction proceedings under Hawai'i Rules of Penal Procedure Rule 40.

### CASE DETAILS

|                       |                                                                                                             |
|-----------------------|-------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of Hawaii                                                                                     |
| WRITING FOR THE COURT | Moon; Levinson; Nakayama; Simms                                                                             |
| JURISDICTION          | Hawaii                                                                                                      |
| DECIDED               | August 11, 2003                                                                                             |
| DOCKET                | No. 25182                                                                                                   |
| DISPOSITION           | affirmed                                                                                                    |
| PROCEDURAL POSTURE    | Appeal from judgment of conviction and sentence for habitual DUI                                            |
| STANDARD OF REVIEW    | Conclusions of law reviewed de novo; statutory interpretation de novo; confession of error independent duty |
| PRECEDENTIAL VALUE    | Published                                                                                                   |
| PARTIES               | Amanaki L. Veikoso v. State of Hawai'i                                                                      |

### TOPICS

- criminal procedure
- statutory interpretation
- post-conviction relief
- appellate procedure
- constitutional law

### PRACTICE AREAS

- Criminal Law
- DUI
- Post-Conviction Relief

### QUESTIONS PRESENTED

1. Whether the trial court erred in denying the motion to dismiss the habitual DUI charge when the defendant offered evidence that predicate DUI convictions were constitutionally invalid.
2. Whether *State v. Shimabukuro* controlled the outcome.
3. Whether a defendant may collaterally attack prior counseled DUI convictions based on allegedly invalid guilty pleas in a subsequent habitual DUI proceeding.

## HOLDINGS

1. A defendant may not collaterally attack prior counseled DUI convictions on the basis that they were obtained as the result of allegedly invalid guilty pleas; challenges must be raised through direct attack or post-conviction relief under HRPP Rule 40.
2. The term 'conviction' means any judgment or plea that has not been expunged by pardon, reversed, or set aside at the time a defendant is found guilty of the habitual DUI charge.

## KEY QUOTATIONS

*“We, therefore, hold that the term 'conviction,' as used in HRS § 291-4.4, means any judgment or plea that has not been expunged by pardon, reversed, or set aside at the time a defendant is found guilty of the habitual DUI charge.” (at 579)*

*“we hold that a defendant may not collaterally attack prior counseled DUI convictions on the basis that they were obtained as the result of allegedly invalid guilty pleas.” (at 582)*

*“Ease of administration also supports the distinction. As revealed in a number of the cases cited in this opinion, failure to appoint counsel at all will generally appear from the judgment roll itself, or from an accompanying minute order. But determination of claims of ineffective assistance of counsel, and failure to assure that a guilty plea was voluntary, would require sentencing courts to rummage through frequently nonexistent or difficult to obtain state-court transcripts or records that may date from another era, and may come from any one of the 50 States.” (at 580-81)*

## FACTUAL BACKGROUND

Veikoso was charged with habitual DUI under HRS § 291-4.4, which required three or more prior DUI convictions within a ten-year period. The prosecution relied on four prior DUI convictions. Veikoso moved to dismiss, collaterally attacking three of those convictions as invalid due to guilty plea defects, including lack of a Tongan interpreter, failure to address him personally regarding constitutional rights, and failure to establish a factual basis. The trial court found the prior convictions were obtained in violation of HRPP Rule 11 and constitutional standards, but denied the motion, concluding that the validity of predicate convictions was irrelevant to the habitual DUI charge. Veikoso entered a conditional guilty plea and was sentenced.

## PROCEDURAL HISTORY

Veikoso was charged with habitual DUI under HRS § 291-4.4. He filed a motion to dismiss, collaterally attacking three prior DUI convictions as constitutionally invalid. The trial court found the prior convictions were obtained in violation of HRPP Rule 11 and constitutional standards, but denied the motion, holding that the

validity of predicate convictions was irrelevant. Veikoso entered a conditional guilty plea and was sentenced to probation with imprisonment conditions. He appealed.

## DISPOSITION

affirmed

## CASES CITED

- State v. Shimabukuro, 100 Hawai'i 324, 60 P.3d 274 (2002)
- State v. Hoang, 93 Hawai'i 333, 3 P.3d 499 (2000)
- State v. Poohina, 97 Hawai'i 505, 40 P.3d 907 (2002)
- Chun v. Board of Trustees of Employees' Retirement Sys., 92 Hawai'i 432, 992 P.2d 127 (2000)
- State v. Entrekin, 98 Hawai'i 221, 47 P.3d 336 (2002)
- University of Texas Medical Branch at Galveston v. York, 871 S.W.2d 175 (Tex. 1994)
- LaRouche v. Fowler, 77 F.Supp.2d 80 (D.C. Cir. 1999)
- Burgett v. Texas, 389 U.S. 109 (1967)
- Lewis v. United States, 445 U.S. 55 (1980)
- Gideon v. Wainwright, Gideon v. Wainwright, 372 U.S. 335 (1963)
- State v. Kamae, 56 Haw. 628, 548 P.2d 632 (1976)
- State v. Vares, 71 Haw. 617, 801 P.2d 555 (1990)
- State v. Sinagoga, 81 Hawai'i 421, 918 P.2d 228 (App. 1996)
- Custis v. United States, 511 U.S. 485 (1994)
- Parke v. Raley, 506 U.S. 20 (1992)
- United States v. Timmreck, 441 U.S. 780 (1979)
- State v. Lopez, 78 Hawai'i 433, 896 P.2d 889 (1995)
- State v. Chiles, 260 Kan. 75, 917 P.2d 866 (1996)
- State v. Hahn, 238 Wis.2d 889, 618 N.W.2d 528 (2000)
- Fairbanks v. State, 331 Md. 482, 629 A.2d 63 (1993)
- Williams v. State, 431 N.E.2d 793 (Ind. 1982)
- State v. Grindling, 96 Hawai'i 402, 31 P.3d 915 (2001)
- Kapiolani Estate v. Atcherly, 14 Haw. 651 (Terr. 1903)
- State v. Lobendahn, 71 Haw. 111, 784 P.2d 872 (1989)
- State v. Lee, 251 Neb. 661, 558 N.W.2d 571 (1997)
- Farmer v. Administrative Director of Court, 94 Hawai'i 232, 11 P.3d 457 (2000)
- People v. Allen, 21 Cal.4th 424, 981 P.2d 525 (1999)

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