

NO. CAAP-17-0000851

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

GARY RESPICIO, Petitioner-Appellant, v.
ADMINISTRATIVE DIRECTOR OF THE COURTS,
STATE OF HAWAII, Respondent-Appellee

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(1DAA-17-00005)

SUMMARY DISPOSITION ORDER
(By: Ginoza, Chief Judge, Fujise and Chan, JJ.)

Petitioner-Appellant Gary Respicio (Respicio) appeals from the Judgment on Appeal, entered on November 1, 2017, in the District Court of the First Circuit, Honolulu Division (District Court).¹ The District Court affirmed the Administrative Driver's License Revocation Office's (ADLRO) decision to revoke Respicio's driver's license for one year.

In this secondary appeal, Respicio contends the District Court erred by affirming the ADLRO's decision by misapplying State v. Heapy, 113 Hawai'i 283, 151 P.3d 764 (2007), because there was no legal way to avoid a roadblock without

¹ The Honorable Melanie May presided.

violating a traffic law and there was no reasonable and articulable basis to stop him.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we resolve Respicio's points of error as follows:

Respicio argues² that "the hearing officer and the District Court did not fully and correctly apply Heapy" and points to a number of facts related to what appears to be his basic contention that, "[a]s there was no legal way to avoid it, the roadblock coerced motorists into the roadblock contrary to Heapy." Respicio does not cite to, nor do we find, language in either the plurality's opinion or the concurring opinion in Heapy that holds the police must provide motorists with a legal method for avoiding a roadblock. Rather, the proposition upon which a majority of the justices agreed was that the police had no reasonable suspicion of criminal activity to justify stopping Heapy when he legally avoided the roadblock.

Respicio does not challenge the hearing officer's finding that he was observed failing to use a turn signal and crossing a solid white line when pulling off the road prior to encountering the roadblock. See Hawaii Revised Statutes § 291C-84 (2007) (Turning movements and required signals) and § 291C-38 (2007) (Longitudinal traffic lane markings). Therefore, the District Court's conclusion that Respicio committed multiple traffic infractions supporting reasonable suspicion for the stop

² We note that Respicio's points on appeal are in violation of Hawai'i Rules of Appellate Procedure Rule 28(b)(4) in that they do not include record citations for where the alleged errors occurred, or where the alleged errors were brought to the attention of the District Court. Respicio also fails to quote the findings or conclusions of the court urged as error. Id. Counsel is warned that future violations of court rules may result in sanctions.

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and its decision to affirm the ADLRO Director's decision was not error.

THEREFORE,

IT IS HEREBY ORDERED that the Judgment on Appeal, entered on November 1, 2017, in the District Court of the First Circuit, Honolulu Division, is affirmed.

DATED: Honolulu, Hawai'i, May 15, 2019.

On the briefs:

Kevin O'Grady,
for Petitioner-Appellant.

Chief Judge

Jennifer D. Waihee-Polk,
Deputy Attorney General,
for Respondent-Appellee.

Associate Judge

Associate Judge