

NO. 30572

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

DATHANIEL WOOLSEY, Petitioner-Appellant, v.
STATE OF HAWAII, Respondent-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(SPP NO. 10-1-0001; CR. NO. 08-1-0210)

SUMMARY DISPOSITION ORDER

(By: Foley, Presiding Judge, Reifurth and Ginoza, JJ.)

Petitioner-Appellant Dathaniel Woolsey ("Woolsey") appeals from the Findings of Fact; Conclusions of Law; Order Denying Petitioner Dathaniel Woolsey's Rule 40 HRPP, Petition for Post-Conviction Relief, filed on June 2, 2010, in the Circuit Court of the Fifth Circuit ("Circuit Court").¹ In the Petition to Vacate, Set Aside, or Correct Judgment or to Release Petitioner from Custody filed on March 18, 2010, Woolsey sought to set aside his conviction and sentence because he was coerced by his attorney into entering a no contest plea.

In the document entitled "Opening Brief" that he filed on September 30, 2011, Woolsey claims that:

[T]he transcript of my court record's [sic] in my original case will show that Judge [R]andal [G.B.] Valenciano did in fact talk about a letter I wrote to him at my preliminary hearing. [W]ere as for public Defender [E]dmund [A]coba threatening me with psychiatric commitment if I did not sign some papers. [H]e would not let anyone help me in understanding what was going on. I beg this court to please understand this is about illegal vote's [sic] thats why said Judge denied [sic] my rule 40! [B]ecause of fear of retaliation, I knowing, and voluntary withdrawal and ask the dismissal of this case.

¹ The Honorable Randal G.B. Valenciano presided.

It appears that Woolsey now requests to withdraw his appeal. In any event, the Opening Brief and lack of the preliminary hearing transcript provides us with no basis upon which to overturn the Circuit Court's decision, and we can find no error in the record before us. *State v. Hoang*, 93 Hawai i 333, 334, 3 P.3d 499, 500 (2000) (court is unable to review asserted errors where appellant has failed to provide transcript of proceedings); *State v. Cornelio*, 68 Haw. 644, 646-47, 727 P.2d 1125, 1126-27 (1986) (defendant must establish manifest injustice in order to withdraw no contest plea); Haw. R. Pen. P. 40(a)(3).

Therefore,

IT IS HEREBY ORDERED that the Findings of Fact; Conclusions of Law; Order Denying Petitioner Dathaniel Woolsey's Rule 40, HRPP, Petition for Post-Conviction Relief, filed on June 2, 2010, in the Circuit Court of the Fifth Circuit is affirmed.

DATED: Honolulu, Hawai i, December 28, 2011.

On the briefs:

Dathaniel Woolsey,
Pro Se Petitioner-Appellant

Presiding Judge

Tracy Murakami,
Deputy Prosecuting Attorney,
County of Kauai,
for Respondent-Appellee

Associate Judge

Associate Judge