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Supreme Court  
SCWC-29846  
09-DEC-2010  
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NO. SCWC-29846

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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STATE OF HAWAI'I, Petitioner/Plaintiff-Appellee

vs.

LYLE SHAWN BENSON, Respondent/Defendant-Appellant

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CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS  
(CR. NO. 07-1-0456(3))

ORDER REJECTING APPLICATION FOR WRIT OF CERTIORARI  
(By: Acoba, J., for the court<sup>1</sup>;  
and Recktenwald, C.J., dissenting)

The Application for Writ of Certiorari filed on October 27, 2010 by Petitioner/Plaintiff-Appellee State of Hawai'i is hereby rejected.

DATED: Honolulu, Hawai'i, December 9, 2010.

FOR THE COURT:

/s/ Simeon R. Acoba, Jr.

Associate Justice



Richard K. Minatoya, Deputy  
Prosecuting Attorney, County of Maui,  
on the application for  
petitioner/plaintiff-appellee.

Karen T. Nakasone, Deputy  
Public Defender, on the  
response for respondent/  
defendant-appellant.

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<sup>1</sup> Considered by: Recktenwald, C.J., Nakayama, Acoba, and Duffy, JJ., and Circuit Judge Border, assigned due to a vacancy.

DISSENT BY RECKTENWALD, C.J.

I respectfully dissent.

I would accept the application for writ of certiorari for the reasons set forth in Chief Judge Nakamura's dissent in the Intermediate Court of Appeals. See State v. Benson, No. 29846, 2010 WL 2601488 (App. Jun. 30, 2010) (SDO).

/s/ Mark E. Recktenwald  
Chief Justice

