CONCURRING OPINION BY NAKAMURA, C.J.

I concur in this court's decision and incorporate my concurring opinion in <u>State v. Johnson</u>, No. 28471, 2010 WL 1718802 (Hawai'i App. Apr. 29, 2010) (unpublished summary disposition order) (Nakamura, C.J., concurring).