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Intermediate Court of Appeals
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NO. 30511

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

TAD MASON, Petitioner-Appellant, v.
STATE OF HAWAI'I, Repondent-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(S.P.P. NO. 99-06)

SUMMARY DISPOSITION ORDER

(By: Nakamura, C.J., Foley and Reifurth, JJ.)

Petitioner-Appellant Tad Mason (Mason) appeals from the Findings of Fact, Conclusions of Law, and Order Denying Petitioner's Petition for Post-Conviction Relief filed on April 26, 2010 in the Circuit Court of the Third Circuit (circuit court).¹

On June 27, 2000, pursuant to Hawai'i Rules of Penal Procedure Rule 40, Mason filed a Petition for Post-Conviction Relief, which he supplemented/amended on November 12, 2002; March 27, 2003; June 23, 2003; and October 1, 2003 (the Petition for Post-Conviction Relief and the supplements/amendments are collectively referred to as the Petition).

To the extent that Mason raised claims in his Petition and the proceeding below but failed to allege the same claims as

¹ The Honorable Glenn S. Hara presided.

points of error on appeal in this case, those claims are waived. Hawai'i Rules of Appellate Procedure Rule 28(b)(4).

In his Opening Brief, Points of Error section, Mason specifically challenges Findings of Fact 15, 16, 23, 24, 25, 26, 41, 43, 46, 47, 48, 49, 52, 53, 55, 56, 63, 86, 100, 101, 102, 103, 104, 108, 109, 110, 111, 121, 122, 134, 135, 136, and 137 and Conclusions of Law 1 through 26, as well as the circuit court's use of the beyond a reasonable doubt standard when evaluating the proffered testimony of potential witnesses to the hearing on the Petition for Post-Conviction Relief.

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, as well as the relevant statutory and case law, we conclude that Mason's appeal is without merit.

Therefore,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law, and Order Denying Petitioner's Petition for Post-Conviction Relief filed on April 26, 2010 in the Circuit Court of the Third Circuit is affirmed.

DATED: Honolulu, Hawai'i, November 4, 2011.

On the briefs:

Brian J. De Lima
William Heflin
(Crudele & De Lima)
for Petitioner-Appellant.

Jack N. Matsukawa,
Deputy Prosecuting Attorney,
County of Hawai'i,
for Respondent-Appellee.


Chief Judge


Associate Judge


Associate Judge