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CAAP-14-0000809

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

GERALD VILLANUEVA, Petitioner-Appellant,  
v.  
STATE OF HAWAII, Respondent-Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT  
(SPP NO. 13-1-0013(2) (CR NO. 96-0078(2))

SUMMARY DISPOSITION ORDER

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

Petitioner-Appellant Gerald Villanueva (Villanueva) appeals from: (1) the "Findings of Fact, Conclusions of Law, and Judgment Denying [Hawaii Rules of Penal Procedure (HRPP)] Rule 40 Petition for Post-Conviction Relief" (Order Denying Petition) that was filed by the Circuit Court of the Second Circuit (Circuit Court)<sup>1/</sup> on April 1, 2014; and (2) the "Order Denying Motion for Reconsideration" (Order Denying Reconsideration) that was filed by the Circuit Court on April 14, 2014. Villanueva's Notice of Appeal, which was filed on May 7, 2014, was untimely as to the Order Denying Petition, and we therefore only have jurisdiction over his appeal from the Order Denying Reconsideration. See HRPP Rule 40(h) (2006); Hawaii Rules of Appellate Procedure Rule 4(b) (2012). We affirm the Circuit Court Order Denying Reconsideration.

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<sup>1/</sup> The Honorable Peter T. Cahill presided over the proceedings relevant to this appeal.

I.

In his underlying criminal case, Villanueva was convicted of first-degree robbery (Count I); possession or use of a firearm in the commission of a separate felony (Count II); and possession of a prohibited firearm or device (Count III). He was sentenced in 1996 to concurrent terms of imprisonment of twenty years on Count I, twenty years on Count II, and five years on Count III. On direct appeal, the Hawai'i Supreme Court affirmed Villanueva's convictions and sentences on Counts I and III, but reversed his conviction on Count II. State v. Villanueva, No. 20220 (Hawai'i May 28, 1998) (SDO). No action was taken by the Circuit Court with respect to the supreme court's decision to reverse Villanueva's conviction on Count II until the Circuit Court resentenced Villanueva on December 2, 2010, to concurrent terms of imprisonment of twenty years on Count I and five years on Count III -- the same terms it had originally imposed for those counts.

Prior to filing his petition in this case, Villanueva filed other petitions for post-conviction relief, in which he asserted the claim that the Circuit Court lacked jurisdiction over his criminal case. These prior petitions were denied. In the petition in this case, Villanueva asserted two grounds for relief: (1) "Lack of Jurisdiction of The Court that entered the Judgment"; and (2) "The United States and the 50 States has no lawful authority or Jurisdiction over People or Men." The Circuit Court denied the petition in this case without a hearing pursuant to the Order Denying Petition. Villanueva filed a motion for reconsideration, which the Circuit Court denied in the Order Denying Reconsideration.

II.

To the extent Villanueva's argument can be discerned, he appears to argue that the Circuit Court lacked jurisdiction over his criminal case and therefore the Circuit Court erred in denying his HRPP Rule 40 petition and his motion for reconsideration. We conclude that the Circuit Court properly

ruled that Villanueva was not entitled to relief because his claim of lack of jurisdiction had previously been ruled upon and rejected in decisions on prior petitions. See HRPP Rule 40(a)(3) (2006). In any event, his jurisdictional claim is without merit. See Hawaii Revised Statutes § 701-106 (1993); State v. Kaulia, 128 Hawai'i 479, 486-87, 291 P.3d 377, 384-86 (2013). Villanueva did not provide any valid grounds to support his motion for reconsideration, and we conclude that the Circuit Court properly denied this motion.

Accordingly, we affirm the Circuit Court's Order Denying Reconsideration.

DATED: Honolulu, Hawai'i, May 13, 2015.

On the briefs:

Gerald Villanueva  
Petitioner-Appellant pro se

Richard K. Minatoya  
Deputy Prosecuting Attorney  
County of Maui  
for Respondent-Appellee

*Craig H. Nakamura*  
Chief Judge

*Lawrence M. Reiff*  
Associate Judge

*Tim M. King*  
Associate Judge