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NO. SCWC-29971

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Respondent/Plaintiff-Appellee,

vs.

BRIAN L. STANTON, Petitioner/Defendant-Appellant.

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS (ICA NO. 29971; CR. NO. 08-1-1801)

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

Petitioner/Defendant-Appellant Brian L. Stanton's

application for writ of certiorari filed on April 14, 2011, is hereby rejected.

DATED: Honolulu, Hawaiʻi, May 26, 2011.

FOR THE COURT:

Taryn R. Tomasa, Deputy Public Defender, for petitioner/defendantappellant on the application.

Chief Justice

/s/ Mark E. Recktenwald

## DISSENT BY ACOBA, J.

I would grant the Application for Writ of Certiorari inasmuch as the several errors, including the allowance of rebuttal testimony, warrant a second review.

/s/ Simeon R. Acoba, Jr.