

Electronically Filed
Supreme Court
SCWC-10-0000245
01-MAY-2012
09:15 AM

No. SCWC-10-0000245

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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

vs.

JAMES B. FLYNN, Petitioner/Defendant-Appellant.

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(ICA NO. CAAP-10-0000245; CASE NO. 1DTA-10-02865)

CONCURRING AND DISSENTING OPINION BY ACOBA, J.

I would vacate the October 26, 2011 judgment of the Intermediate Court of Appeals in support of its September 16, 2011 summary disposition order and the December 15, 2010 judgment of the District Court of the First Circuit, with respect to the claims raised by Petitioner/Defendant-Appellant James B. Flynn. I would remand the case to the district court to dismiss the complaint without prejudice, based on the concurring and dissenting opinion in State v. Nesmith, ___ Hawai'i ___, ___ P.3d ___ (2012) (Acoba, J., concurring and dissenting).

DATED: Honolulu, Hawai'i, May 1, 2012.

/s/ Simeon R. Acoba, Jr.

