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SCWC-30390

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

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

vs.

JERRICO LINDSEY, aka Rick, Petitioner/Defendant-Appellant,

and

REGINALD PETTWAY and MELISSA ORDONEZ, Respondents/Defendants.

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(ICA NO. 30390; CR. NO. 08-1-0643)

DISSENT BY ACOBA, J.

I respectfully dissent to the rejection of the certiorari application (Application) filed by Petitioner/Defendant-Appellant Jerrico Lindsey (Lindsey), seeking review of the July 2, 2013 judgment filed by the Intermediate Court of Appeals, pursuant to its May 31, 2013 summary disposition order (SDO), affirming the February 23, 2010 judgment of the Circuit Court of the First Circuit (the court).

Lindsey was incarcerated from the date of his arrest on May 15, 2007, denied bail and denied a severance of trial. His trial was delayed by the prosecution's requests for continuances,

and his co-defendants' requests for continuances, to which Lindsey consistently and frequently objected. This is a case in which, under the facts, "[a] showing of actual prejudice to the defendant is not essential," State v. Wasson, 76 Hawai'i 415, 422, 879 P.2d 520, 527 (1994), for his speedy trial claim. Under these circumstances, inherent prejudice can redound from the denial of Lindsey's rights to a speedy trial. I would grant the Application because the case demands further review.

Based on the foregoing, I respectfully dissent.

DATED: Honolulu, Hawai'i, October 18, 2013.

/s/ Simeon R. Acoba, Jr.

