

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

---000---

ISIDRO OSWALDO CUN-LARA, Petitioner-Appellant, v.
STATE OF HAWAII, Respondent-Appellee

NO. 30497

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(SPECIAL PROCEEDING - PRISONER NO. 09-1-0008;
CRIMINAL NO. 06-1-0145)

ORDER OF AMENDMENT

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

IT IS HEREBY ORDERED that the published Opinion of the Court filed on March 28, 2012, is amended as follows:

In the last paragraph on page 20, the entire last sentence beginning with the word "Therefore" and ending with the word "diligence" is deleted and replaced with the following sentence:

Therefore, Cun-Lara's claim that his no-contest plea was not knowingly, intelligently, and voluntarily given due to a lack of understanding of the deportation risks associated with pleading no contest to the drug-paraphernalia charge is not colorable, and the Circuit Court did not err in denying this claim without a hearing.

In the first paragraph on page 21, the first sentence, "It is the defendant's burden to establish ineffective assistance of counsel" and the citation, "*Wakisaka*, 102 Hawaii at 514, 78 p.3d at 327" is deleted. In the following sentence that begins with the word "Nothing" the word "constitutional" is deleted, so that the sentence reads:

Nothing in the record indicates that Attorney Castillo's obligations extended any further than informing Cun-Lara that deportation was a possible consequence of his no-contest plea.

The remaining two sentences of the paragraph, beginning with the word "Nothing" and ending with the word "hearing" are deleted

FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

from page 21 and moved to the ending of the paragraph at the top of page 24, after the sentence ending with the word "omitted" and replaces the last sentence, "Cun-Lara failed to meet his burden and thus his ineffective assistance of counsel claim is without merit," which is deleted.

In the first paragraph of section B on page 23, after the words "voluntary manner" a period is inserted and the remainder of that sentence which reads, "and that Attorney Castillo's deportation-related advice was not constitutionally ineffective" is deleted.

The Clerk of the Court is directed to take all necessary steps to notify the publishing agency of the amendments.

An Amended Opinion of the Court will be filed contemporaneously with this order.

DATED: Honolulu, Hawai'i, March 30, 2012.

Chief Judge

Associate Judge

Associate Judge