

NO. CAAP-10-0000199

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

SANDRA KAY SCHWARTZ, Petitioner-Appellant, v.  
STATE OF HAWAII, Respondent-Appellee

APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT  
LAHAINA DIVISION  
(DC-S.P. NO. 10-1-0005; CASE NO. 2DTA-08-00292)

SUMMARY DISPOSITION ORDER

(By: Foley, Presiding Judge, Fujise and Reifurth, JJ.)

Petitioner-Appellant Sandra Kay Schwartz ("Schwartz") appeals from the Findings of Fact, Conclusions of Law, and Order Denying Petition for Post-Conviction Relief, filed on November 3, 2010 ("Order"), in the District Court of the Second Circuit, Lahaina Division ("District Court").<sup>1/</sup>

On appeal, Schwartz contends that (1) the District Court lacked jurisdiction because the complaint failed to allege an essential element of the offense of OVUII, and (2) *Wheeler* did not announce a new constitutional rule of criminal procedure.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we affirm the Order on the basis explained today in our decision in *Christian v. State*, No. CAAP-11-0000147 (Haw. Ct. App. Nov. 27, 2013).

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<sup>1/</sup> The Honorable Kelsey T. Kawano presided.

THEREFORE,

IT IS HEREBY ORDERED THAT the Findings of Fact, Conclusions of Law, and Order Denying Petition for Post-Conviction Relief, filed on November 3, 2010 in the District Court of the Second Circuit, Lahaina Division, is affirmed.

DATED: Honolulu, Hawai'i, November 27, 2013.

On the briefs:

Hayden Aluli,  
for Petitioner-Appellant.

Presiding Judge

Renee Ishikawa Delizo,  
Deputy Prosecuting Attorney,  
County of Maui,  
for Respondent-Appellee.

Associate Judge

Associate Judge