NO. SCWC-29659

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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

vs.

SAMUEL WALKER, also known as Samuel Ahsan,
Petitioner/Defendant-Appellant.

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(ICA NO. 29659; CR. NO. 08-1-0586)

ORDER OF AMENDMENT TO THE MAJORITY OPINION
(By: Acoba, Duffy, and McKenna, JJ.)

The majority opinion of the court filed on March 28,
2012, is amended as follows:

1.   **Page 2, lines 3-5:**

Replace "affirmed the January 29, 2009 notice of entry
of judgment of conviction and sentence (judgment) of the circuit
court of the first circuit (circuit court)" with "vacated the
January 26, 2009 notice of entry of judgment and conviction and
sentence (judgment) of the circuit court of the first circuit
(circuit court),[1] and remanded the case with instructions to
dismiss Count I without prejudice" so that, as corrected, the

lines read: appeal, which vacated the January 26, 2009 notice of entry of judgment and conviction and sentence (judgment) of the circuit court of the first circuit (circuit court),[1] and remanded the case with instructions to dismiss Count I without prejudice. The circuit court

2. **Page 12, first paragraph, line 2:**

Delete the underscore between the words "inter alia" so that, as corrected, the line reads: law contending, inter alia, that Count I failed to allege an

3. **Page 13, second paragraph, line 2:**

Delete the underscore between the words "inter alia" so that, as corrected, the line reads: guilty of, inter alia, Count I, habitually operating a vehicle

4. **Page 16, first paragraph, lines 7-8 (citation):**

Replace "Id." with "Walker, No. 29659, 2011 WL 4537771" so that, as corrected, the lines read: giving the defendant 'reasonable notice of the facts.'" Walker, No. 29659, 2011 WL 4537771 at *6 (citing HRS § 806-34 (1993)).

5. **Page 22, line 3:**

Delete the underscore between the words "inter alia" so that, as corrected, the line reads: reasons, inter alia, Chief Judge Nakamura would have affirmed

6. **Page 25, second paragraph, line 1:**

Replace "19" with "10" so that, as corrected, the line reads: The trial court convicted Ruggiero of the March 10,

7. **Page 27, second paragraph, line 6:**

Delete the underscore between the words "inter alia" so that, as corrected, the line reads: for writ of certiorari, contending, inter alia, that "the ICA

8. **Page 30, lines 3-5:**

Replace "Significantly, the issues present in Ruggiero and Kekuewa are distinguishable from Walker's Application." with "Significantly, and as the State's response to Walker's Application correctly noted, the issues presented in Ruggiero and Kekuewa are distinguishable from those raised in the present case:" so that, as corrected, the lines read: to a lesser-included offense. Significantly, and as the State's response to Walker's Application correctly noted, the issues presented in Ruggiero and Kekuewa are distinguishable from those raised in the present case:

9. **Page 31, first paragraph, last line:**

Add a period after the word "facts" so that, as corrected, the line reads: notice of the facts.").

10. **Page 31, line 4 from the bottom:**

Delete the underscore between the words "sua sponte" so that, as corrected, the line reads: and to dismiss the appeal sua sponte if a jurisdictional defect

11. **Page 31, line 3 from the bottom:**

Replace "exits." with "exists." so that, as corrected, the line reads: exists." State v. Graybeard, 93 Hawaiʻi 513, 516, 6 P.3d 385, 388

12. **Page 37, line 6:**

Delete the underscore between the words "sua sponte" and replace "exits" with "exists" so that, as corrected, the line reads: dismiss the appeal sua sponte if a jurisdictional defect exists."

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

An amended opinion of the court will be filed contemporaneously with this order.

DATED: Honolulu, Hawaiʻi, April 24, 2012.

/s/ Simeon R. Acoba, Jr.

/s/ James E. Duffy, Jr.

/s/ Sabrina S. McKenna

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