

DISSENTING OPINION BY NAKAMURA, C.J.

I do not agree with the majority's determination that the District Court satisfied the requirements of Tachibana v. State, 79 Hawai'i 226, 900 P.2d 1293 (1995). In my view, the District Court erred by failing to adequately advise Defendant-Appellant Ritalynn Moss Celestine (Celestine) that if she wanted to testify, no one could prevent her from doing so, see id., at 236 n.7, 900 P.2d at 1303 n.7, and that as a result, Celestine's waiver of her right to testify was not valid. Celestine did not testify at trial, and I cannot say that the District Court's error was harmless. See State v. Hoang, 94 Hawai'i 271, 279, 12 P.3d 371, 379 (App. 2000). Accordingly, I would vacate the District Court's Judgment and remand the case for a new trial.

*Craig H. Nakamura*