

**Electronically Filed
Supreme Court
SCWC-15-0000945
07-OCT-2016
10:30 AM**

SCWC-15-0000945

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

GERALD VILLANUEVA,
Petitioner/Petitioner-Appellant,

vs.

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

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(CAAP-15-0000945; S.P.P. NO. 15-1-0013(2) (CR. NO. 96-0078(2))

ORDER DISMISSING APPLICATION FOR WRIT OF CERTIORARI
(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

It appearing that the judgment on appeal in the above-referenced matter not having been filed by the Intermediate Court of Appeals at the time the application for certiorari was filed, see Hawai'i Revised Statutes § 602-59(a) (Supp. 2013); see also Hawai'i Rules of Appellate Procedure (HRAP) Rule 36(b)(1) (2012),

IT IS HEREBY ORDERED that Petitioner's application for writ of certiorari, filed September 26, 2016, is dismissed without prejudice to re-filing the application pursuant to HRAP Rule 40.1(a) (2014) ("The application shall be filed within thirty days after the filing of the intermediate court of appeals' judgment on appeal or dismissal order, unless the time

for filing the application is extended in accordance with this rule.").

DATED: Honolulu, Hawai'i, October 7, 2016.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

