

NO. 29818

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

FRANK O. LOHER, Petitioner-Appellant, v.
STATE OF HAWAII, Respondent-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(SPECIAL PROCEEDINGS PRISONER NO. 05-1-0067;
CRIMINAL NO. 99-1621)

SUMMARY DISPOSITION ORDER

(By: Leonard, Presiding Judge, Reifurth and Ginoza, JJ.)

This case most directly concerns Defendant-Appellant Frank O. Loher's (**Loher's**) appeals from the Findings of Fact, Conclusions of Law, and Order Denying Petition for Post-Conviction Relief (**Post-Conviction Order**) filed by the Circuit Court of the First Circuit (**Circuit Court**) on April 14, 2009,¹ but is part of numerous proceedings arising out of Loher's jury trial and conviction for attempted sexual assault in the first degree, which are recounted in the Hawai'i Supreme Court's July 20, 2017 Opinion (**Loher IX**) in No. SCAP-24489. As set forth therein, Loher IX was decided after transfer of No. 24489 (the

^{1/} The Honorable Richard K. Perkins presided.

direct appeal) to the supreme court. Prior to the transfer, this court had vacated its judgments in both No. 24489 and this appeal, No. 29818. In Loher IX, the supreme court vacated the Circuit Court's July 18, 2001 Judgment, and remanded the case for a new trial.

In light of the supreme court's decision in Loher IX, this court's May 31, 2011 Memorandum Opinion in this case, No. 29818, is vacated and the Circuit Court's April 14, 2009 Post-Conviction Order in SPP No. 05-1-0067 is reversed. As noted above, further proceedings will be conducted in the Circuit Court pursuant to the supreme court's decision in Loher IX.

DATED: Honolulu, Hawaii, July 31, 2017.

On the briefs:

Peter C. Wolff, Jr.,
Craig W. Jerome,
for Petitioner-Appellant.

Presiding Judge

Brian R. Vincent,
Deputy Prosecuting Attorney,
for Respondent-Appellee.

Associate Judge

Associate Judge