NO. CAAP-13-0003694

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAIʻI

ROYNES JOSEPH DURAL, II, Petitioner-Appellant,
v.
STATE OF HAWAIʻI, Respondent-Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(S.P.P. No. 09-1-0015 (CR. NO. 02-1-2791)

ORDER DENYING MOTION FOR CLARIFICATION
(By: Leonard, Presiding Judge, Ginoza and Chan, JJ.)[1/]

On March 5, 2018, Respondent-Appellee State of Hawaiʻi (**State**) filed a "Motion for Clarification of the Court's Memorandum Opinion" (**Motion for Clarification**). On March 9, 2018, Petitioner-Appellant Roynes Joseph Dural, II, filed a memorandum in opposition to the Motion for Clarification. The State asserts that it seeks to clarify "whether this Court's intention was to vacate and remand for a new trial, or vacate and remand to the trial court for determination of whether the newly discovered evidence satisfies the four-part test set forth in People v. Cress, 468 Mich. 678, 664 N.W.2d 50, 17[4] (Mich. 2003)."

[1/] Chief Judge Craig H. Nakamura was a member of the merit panel when the Memorandum Opinion in this case was filed, but he retired effective March 1, 2018. Associate Judge Lisa M. Ginoza was assigned to the merit panel on March 12, 2018.

It is clear from our Memorandum Opinion that we remanded the case for a new trial, and not for the trial court to determine whether a new trial should be granted. We specifically stated: "[W]e conclude that Dural presented newly discovered evidence that warranted a new trial and that the Circuit Court abused its discretion in denying his request for a new trial." Dural v. State, No. CAAP-13-0003694, 2018 WL 1063886, at *3 (Hawai'i App. Feb. 27, 2018).

Because it is clear from our Memorandum Opinion that we remanded the case for a new trial, we conclude that the clarification requested by the State is unnecessary.

Accordingly, IT IS HEREBY ORDERED that the State's Motion for Clarification is denied.

DATED: Honolulu, Hawai'i, March 13, 2018.

Presiding Judge

Associate Judge

Associate Judge