

NOT FOR PUBLICATION

NO. 26464

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee, v.
TOMMY G. MARTIN, Defendant-Appellant

APPEAL FROM THE FAMILY COURT OF THE THIRD CIRCUIT
(FC-Cr. No. 03-1-0342)

SUMMARY DISPOSITION ORDER

(By: Burns, C.J., Lim and Foley, JJ.)

Tommy G. Martin (Martin) appeals the March 11, 2004 order of the Family Court of the Third Circuit (family court)¹ that denied his December 18, 2003 motion to withdraw no contest plea.

Upon a meticulous review of the record and the briefs submitted by the parties, and giving careful consideration to the arguments advanced and the issues raised by the parties, we conclude that the record fails to affirmatively demonstrate that Martin's no contest plea was knowing and voluntary. State v. Solomon, No. 24470, slip op. at 20-21 (Haw. filed April 29, 2005); State v. Nguyen, 81 Hawai'i 279, 292, 916 P.2d 689, 702 (1996).

Therefore,

IT IS HEREBY ORDERED that the family court's March 11,

¹ The Honorable Barbara T. Takase conducted the change of plea hearing. The Honorable William S. Chillingworth heard and decided the motion to withdraw no contest plea.

E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

2005 MAY 25 AM 10:54

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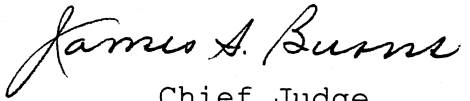
2004 order is reversed, its July 9, 2003 judgment of conviction and sentence is vacated, and the case is remanded for a new change of plea hearing.

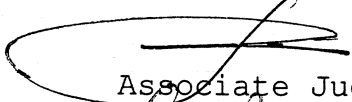
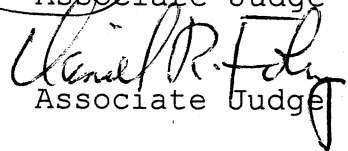
DATED: Honolulu, Hawai'i, May 25, 2005.

On the briefs:

Lionel M. Riley,
for defendant-appellant.

Janet R. Garcia,
Deputy Prosecuting Attorney,
County of Hawai'i,
for plaintiff-appellee.


Chief Judge


Associate Judge

Associate Judge