

NOT FOR PUBLICATION

NO. 26102

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

ORLANDO MENDOZA, Petitioner-Appellant, v.
STATE OF HAWAI'I, Respondent-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(S.P.P. NO. 02-1-0005 (Cr. No. 97-1146))

SUMMARY DISPOSITION ORDER

(By: Watanabe, Acting C.J., Foley and Nakamura, JJ.)

Petitioner-Appellant Orlando Mendoza (Mendoza) appeals from the Findings of Fact, Conclusions of Law, and Order Denying HRPP Rule 40 Petition filed on September 2, 2003 in the Circuit Court of the First Circuit^{1/} (circuit court). On appeal, Mendoza contends the circuit court erred when it denied his Petition for Post-Conviction Relief (Petition) because Mendoza had met his burden of showing that his trial counsel was ineffective.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues as raised by the parties, we conclude the circuit court did not err in finding no specific errors or omissions on the part of trial counsel that reflected a lack of skill, judgment, or diligence resulting in the withdrawal or substantial impairment of a potentially meritorious defense. State v. Samuel, 74 Haw. 141, 838 P.2d 1374 (1992); State v.

^{1/} The Honorable Reynaldo D. Gaulty presided.

NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

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Pacheco, 96 Hawai'i 83, 26 P.3d 572 (2001); State v. Aplaca, 74 Haw. 54, 837 P.2d 1298 (1992); and Briones v. State, 74 Haw. 442, 848 P.2d 966 (1993).

Therefore,


IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law, and Order Denying HRPP Rule 40 Petition filed on September 2, 2003 in the Circuit Court of the First Circuit is affirmed.

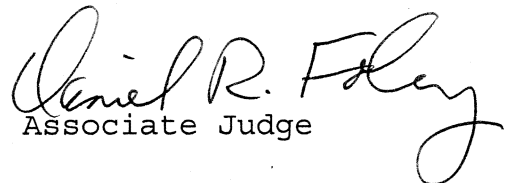
DATED: Honolulu, Hawai'i, December 22, 2005.


On the briefs:

Valerie A. Vargo
for Petitioner-Appellant.

Loren J. Thomas,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Respondent-Appellee.


Acting Chief Judge


Associate Judge


Associate Judge