

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 29504

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

ANTHONY K. CHATMAN, Petitioner-Appellant,
v.
STATE OF HAWAI'I, Respondent-Appellee

K. HAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

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FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(S.P.P. NO. 08-1-0019
(FC-Cr. No. 02-1-0011 and Cr. No. 02-1-2353))

SUMMARY DISPOSITION ORDER

(By: Foley, Presiding J., Leonard, J., and
Circuit Judge Perkins, in place of
Nakamura, C.J., and Fujise, J., both recused)

Petitioner-Appellant Anthony K. Chatman (Chatman) appeals from the Findings of Fact, Conclusions of Law, and Order Denying Petition For Post-Conviction Relief (FOF/COL/Order) filed on January 26, 2009 in the Circuit Court of the First Circuit (circuit court).¹

On June 30, 2003, a jury convicted Chatman of (1) Attempted Murder in the Second Degree, in violation of Hawaii Revised Statutes (HRS) §§ 705-500(2) (1993), 707-701.5 (1993), and 706-656 (1993 & Supp. 2009) in Cr. No. 02-1-0011; and (2) Bribery of a Witness, in violation of HRS § 710-1070(1)(a), (b), and (c) (1993); Intimidating a Witness, in violation of HRS § 710-1071(1)(a), (b), and (c) (1993); and Extortion in the Second Degree, in violation of HRS §§ 707-766(1)(b) (1993) and 707-764(2) (Supp. 2007) in Cr. No. 02-1-2353.² The circuit court

¹ The Honorable Karen S. S. Ahn presided.

² The jury found Chatman not guilty of Abuse of Family and Household Members, HRS § 709-906 (Supp. 2005), and the circuit court filed the Judgment of Acquittal on June 30, 2003.

filed its judgments on July 19, 2004,³ and Chatman timely appealed.

On August 3, 2006, in Chatman's direct appeal, the Hawai'i Supreme Court (1) affirmed his convictions except for his conviction in Cr. No. 02-1-2353 for Extortion in the Second Degree, which the court vacated, and (2) denied his ineffective assistance of counsel claim without prejudice.

On May 12, 2008, Chatman filed a Petition for Post-Conviction Relief (Petition), pursuant to Rule 40 of the Hawaii Rules of Penal Procedure (HRPP). Chatman claimed that he had received ineffective assistance of counsel because his trial counsel failed to (1) secure the presence or testimony of a witness, Eri Gunji (Gunji), at trial (2) investigate a juror, and (3) secure the appearance of witnesses for a motion for new trial.

The State of Hawai'i filed its answer on September 5, 2008. On January 26, 2009, the circuit court filed the FOF/COL/Order. Chatman timely appealed.

On appeal, Chatman asserts the same claims as those in his Petition.

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 raised by the parties, as well as the relevant statutory and case law, we conclude that Chatman's points of error are without merit. Chatman did not meet his "burden of establishing ineffective assistance of counsel . . . : 1) that there were specific errors or omissions reflecting counsel's lack of skill, judgment, or diligence; and 2) that such errors or omissions resulted in either the withdrawal or substantial impairment of a potentially meritorious defense." State v. Wakisaka, 102 Hawai'i 504, 514, 78 P.3d 317,

³ On December 30, 2002, the circuit court consolidated Cr. Nos. 02-1-0011 and 02-1-2353 for trial.

327 (2003) (internal quotation marks, citations, and footnote omitted).

Therefore,

IT IS HEREBY ORDERED that the Findings of Fact, Conclusions of Law, and Order Denying Petition For Post-Conviction Relief filed on January 26, 2009 in the Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, March 24, 2010.

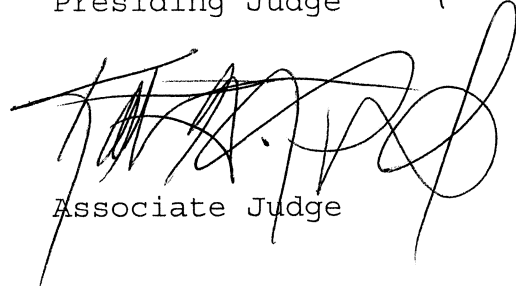
On the briefs:

Anthony Chatman,
Petitioner-Appellant pro se.

Stephen K. Tsushima,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Respondent-Appellee.


Daniel R. Foley

Presiding Judge



Associate Judge


Richard K. Perkins

Acting Associate Judge