

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 24966

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

---

EUGENE JAMES HUTCH, Petitioner-Appellant

vs.

STATE OF HAWAI'I, Respondent-Appellee

---

APPEAL FROM THE FIRST CIRCUIT COURT  
(S.P.P. NO. 01-1-0028)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Petitioner-appellant Eugene James Hutch appeals from the February 20, 2002 order of the circuit court of the first circuit, the Honorable Karen S.S. Ahn presiding, denying Hutch's HRPP Rule 40 petition for post-conviction relief. On appeal, Hutch argues that (1) he was denied effective assistance of counsel, and (2) HAR § 17-202-1(b) hindered his access to the courts.

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised, we hold that the circuit court did not err by denying Hutch's HRPP Rule 40 petition without a hearing because Hutch failed to establish a colorable claim, inasmuch as Hutch failed to: (1) meet his burden of sufficiently alleging ineffective assistance of counsel, Dan v. State, 76 Hawai'i 446, 879 P.2d 551 (1994); and (2) demonstrate that HAR § 17-202-1(b) had any relation to his conviction or would change his guilty verdict, see HRPP Rule

**\*\*\* NOT FOR PUBLICATION \*\*\***

40(a)(1)(v). Therefore,

IT IS HEREBY ORDERED that the judgment from which the appeal is taken is affirmed.

DATED: Honolulu, Hawai'i, December 1, 2003.

On the briefs:

Eugene James Hutch,  
petitioner-appellant  
pro se

Donn Fudo, Deputy  
Prosecuting Attorney,  
for respondent-appellee  
State of Hawai'i