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Supreme Court
SCWC-29846
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NO. SCWC-29846

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Petitioner/Plaintiff-Appellee

vs.

LYLE SHAWN BENSON, Respondent/Defendant-Appellant

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(CR. NO. 07-1-0456(3))

ORDER REJECTING APPLICATION FOR WRIT OF CERTIORARI
(By: Acoba, J., for the court¹;
and Recktenwald, C.J., dissenting)

The Application for Writ of Certiorari filed on October 27, 2010 by Petitioner/Plaintiff-Appellee State of Hawai'i is hereby rejected.

DATED: Honolulu, Hawai'i, December 9, 2010.

FOR THE COURT:

/s/ Simeon R. Acoba, Jr.

Associate Justice



Richard K. Minatoya, Deputy
Prosecuting Attorney, County of Maui,
on the application for
petitioner/plaintiff-appellee.

Karen T. Nakasone, Deputy
Public Defender, on the
response for respondent/
defendant-appellant.

¹ Considered by: Recktenwald, C.J., Nakayama, Acoba, and Duffy, JJ., and Circuit Judge Border, assigned due to a vacancy.

DISSENT BY RECKTENWALD, C.J.

I respectfully dissent.

I would accept the application for writ of certiorari for the reasons set forth in Chief Judge Nakamura's dissent in the Intermediate Court of Appeals. See State v. Benson, No. 29846, 2010 WL 2601488 (App. Jun. 30, 2010) (SDO).

/s/ Mark E. Recktenwald
Chief Justice

