

**Electronically Filed  
Supreme Court  
SCWC-11-0000592  
21-MAR-2014  
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SCWC-11-0000592

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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ERWIN E. FAGARAGAN,  
Petitioner/Petitioner-Appellant,

vs.

STATE OF HAWAI'I,  
Respondent/Respondent-Appellee.

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CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS  
(CAAP-11-0000592; S.P.P. NO. 11-1-0005(1);  
CR. NOS. 04-1-0595(1) & 05-1-0090(1))

ORDER OF CORRECTION  
(By: Pollack, J.)

IT IS HEREBY ORDERED that the Opinion of the Court,  
filed on February 14, 2014, is corrected as follows:

1. On page 2, lines 11-12:

Replace "Supp. 2011" with "1993 & Supp. 2006"

2. On page 2, line 18:

Replace "2005" with "2003"

3. On page 2, footnote 1, line 1:

Replace "2005" with "2003"

4. On page 3, line 1:

Replace "2005" with "2002"

5. On page 3, line 2:  
Replace "329.43" with "329-43"
6. On page 3, line 3:  
Replace "Supp. 2005" with "1993"
7. On page 3, lines 4:  
Replace "Supp. 2005" with "1993"
8. On page 3, footnote 2, line 1:  
Replace "2005" with "2002"
9. On page 3, footnote 3, line 1:  
Replace "Supp. 2005" with "1993"
10. On page 3, footnote 4, line 1:  
Replace "Supp. 2005" with "1993"
11. On page 4, line 6:  
Delete "(Supp. 2005)"
12. On page 4, line 8:  
Replace "2005" with "2002"
13. On page 4, line 9:  
Replace "329.43.5" with "329-43.5" and  
delete "(Supp. 2005)"
14. On page 4, footnote 5, line 1:  
Replace "2005 Supp." with "Supp. 2002"
15. On page 4, footnote 5, line 7:  
Delete ", except for methamphetamine"

16. On page 4, footnote 5, line 12:  
Insert "methamphetamine," after "containing"
17. On page 5, line 8:  
Replace "370" with "371" and replace "745" with "746"
18. On page 5, line 13:  
Replace "372" with "371-72" and  
replace "747" with "746-47"
19. On page 5, line 14:  
After "Id." add "at 372, 167 P.3d at 747."
20. On page 7, line 11:  
Add "(2006)" after "40"
21. On page 8, footnote 8, line 4:  
Replace ")s)" with "(s)"
22. On page 9, line 7:  
Delete "121 Hawai'i 178," and delete "at"
23. On page 10, line 6:  
Add "in" after "listed"
24. On page 10, line 7:  
Add "give" after "and"
25. On page 14, line 26:  
Delete ", 116 Hawai'i 181, 172 P.3d 493 (2007)"
26. On page 14, footnote 10, line 8:  
Replace "the being" with "this being".

27. On page 20, line 12:  
Replace "(Emphasis added)" with "Fagaragan v. State,  
No. CAAP-11-0000592, 2012 WL 4211909, \*2-\*3 (App. Sep.  
19, 2012) (SDO) (emphasis added)"
28. On page 20, line 18:  
Replace "Oct." with "October"
29. On page 23, line 11:  
Replace "711" with "707"
30. On page 24, line 24:  
Replace "an" with "[a]n"
31. On page 26, line 13:  
Replace "errors" with "erros [sic]"
32. On page 27, footnote 12, line 10:  
Replace "[A]" with "A" and  
replace "should" with "should"
33. On page 27, footnote 12, line 11:  
Delete the "'" after "claim."
34. On page 27, footnote 12, lines 11-12:  
Replace "96, 904 P.2d 1142, 1150" with "327, 335-36,  
909 P.2d 1142, 1150-51"
35. On page 29, lines 8-9:  
Delete "489," and ", 891"
36. On page 29, line 18:  
Replace "485, 489" with "487-89" and

replace "887, 889" with "889-91"

37. On page 32, footnote 13, line 2:

Insert "(1995)" after "1299"

38. On page 32, footnote 13, line 5:

Replace "968-69" with "975"

39. On page 33, footnote 13, line 2:

Add "-78" after "577" and add "-35" after "334"

40. On page 39, line 7:

Insert tab to note paragraph before "In"

41. On page 39, footnote 18, line 1:

Delete the quotation mark before "was" and insert a quotation mark before "support"

42. On page 39, footnote 18:

At the end of footnote 18, insert "Fagaragan, 2012 WL 4122909, at \*3."

43. On page 44, line 20:

Replace the period after "prisoner" with "[.]"

44. On page 46, line 14:

Replace period after "prisoner" with "[.]"

45. On page 47, line 1:

Add "-85" after "183" and add "-97" after "495"

The Clerk of the Court is directed to take all necessary steps to notify the publishing agencies of these changes.

DATED: Honolulu, Hawai'i, March 21, 2014.

/s/ Richard W. Pollack  
Associate Justice

