

DISSENTING OPINION BY RAMIL, J.

This case is another example of why we should overrule State v. Viernes, 92 Hawai'i 130, 988 P.2d 195 (1999). For the reasons discussed in State v. Carmichael, 99 Hawai'i 75, 53 P.3d 214 (2002), I respectfully dissent.