

NO. 23118

IN THE SUPREME COURT OF THE STATE OF HAWAII

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STATE OF HAWAII, Plaintiff-Appellee

vs.

DINO MENOR, Defendant-Appellant

and

BERNON MENOR, Defendant

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APPEAL FROM THE FIRST CIRCUIT COURT  
(CR. NO. 99-0739)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Dinor Menor (Menor) timely appeals the First Circuit Court's January 20, 2000 judgment of conviction and sentence of first degree burglary in violation of Hawai'i Revised Statutes (HRS) § 708-810(1)(c) (Supp. 1993). Menor requests this court to recognize a plain error or defect in the trial court proceedings that affected his substantial rights. Specifically, Menor asserts he was denied a fair trial, as guaranteed by article I, section 14 of the Hawai'i Constitution, because he was not offered an attorney prior to his participation in a pre-indictment lineup. In so asserting, Menor asks this court to overturn State v. Masaniai, 63 Haw. 354, 628 P.2d 1018 (1981).

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and issues raised, we decline to exercise our discretion to recognize plain error because, simply put, there is no plain error to recognize. Under article I, section 14 of the Hawai'i Constitution, the right to assistance of counsel does not attach to pre-indictment lineups. Therefore,

IT IS HEREBY ORDERED that the circuit court's January 20, 2000 judgment of conviction and sentence of first degree burglary is affirmed.

DATED: Honolulu, Hawai'i, October 19, 2000.

On the briefs:

Michael G.M. Ostendorp  
and Shawn A. Luiz  
for defendant-appellant

Caroline M. Mee, Deputy  
Prosecuting Attorney,  
(Lisette Blumhardt, Law  
Clerk, with her on the  
brief) for plaintiff-  
appellee