

NO. 23478

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

PETER HALLORAN, Petitioner-Appellant

vs.

STATE OF HAWAI'I, Respondent-Appellee

APPEAL FROM THE FIRST CIRCUIT COURT
(S.P.P. NO. 99-0008 (CR. NO. 96-1310))

SUMMARY DISPOSITION ORDER

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

Petitioner-appellant Peter Halloran appeals from the order denying his petition for post-conviction relief filed on May 5, 2000, by the Circuit Court of the First Circuit, the Honorable Dexter Del Rosario presiding. Halloran contends that: (1) the circuit court erred in denying Halloran post-conviction relief where a "newly discovered" witness possessed evidence of Halloran's innocence; (2) Halloran was denied a constitutionally fair trial because attorney Reginald K.T. Yee (Trial Counsel) failed to voir dire a juror; and (3) Halloran received ineffective assistance of counsel from both Trial Counsel and attorney Sarah Courageous (Appellate Counsel).

Upon carefully reviewing the record and the briefs submitted, we hold as follows: the circuit court did not err by

denying Halloran post-conviction relief because (1) the issue concerning new evidence provided by witness Domingo Ruiz was previously ruled upon by the Intermediate Court of Appeals in its summary disposition order in Halloran's direct appeal (Supreme Court No. 21052), Hawai'i Rules of Penal Procedure (HRPP) Rule 40(a)(3); (2) Halloran waived post-conviction relief because he could have brought the issue of Trial Counsel's failure to voir dire a juror in his direct appeal, HRPP Rule 40(a)(3);

(3) Halloran's claims of ineffective assistance of counsel against Trial Counsel fail because Halloran failed to (a) further develop claims he brought on direct appeal, see State v. Silva, 75 Haw. 419, 864 P.2d 583 (1993), or (b) meet the two-part test required to establish ineffective assistance of counsel:

(1) that there were specific errors or omissions reflecting counsel's lack of skill, judgment, or diligence; and (2) that such errors or omissions resulted in either the withdrawal or substantial impairment of a potentially meritorious defense, see State v. Fukusaku, 85 Hawai'i 462, 946 P.2d 32 (1997);

(4) Halloran's claims of ineffective assistance of counsel against Appellate Counsel fail because Halloran failed (a) to establish that Appellate Counsel omitted an appealable issue that a reasonably competent attorney would not have omitted, see Garringer v. State, 80 Hawai'i 327, 909 P.2d 1142 (1996), or (b) to meet the two-part test required to establish ineffective

assistance of counsel, see Fukusaku, 85 Hawai'i 462, 946 P.2d 32 (1997). Therefore,

IT IS HEREBY ORDERED that the First Circuit Court's May 5, 2000 order denying Halloran's petition for post-conviction relief is affirmed.

DATED: Honolulu, Hawai'i, March 22, 2004.

On the briefs:

Peter Halloran,
Petitioner-Appellant
Pro Se

James M. Anderson
Deputy Prosecuting Attorney,
for Respondent-Appellee
State of Hawai'i