

NO. 22524

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee

v.

HANNIBAL HUIHUI, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIFTH CIRCUIT
(CASE NO. LC98-671)

SUMMARY DISPOSITION ORDER

(By: Burns, C.J., Watanabe, and Lim, JJ.)

In accordance with Hawai'i Rules of Appellate Procedure Rule 35, and after carefully reviewing the record and the briefs submitted by the parties, and duly considering and analyzing the law relevant to the arguments and issues raised by the parties,

IT IS HEREBY ORDERED that the Final Judgment of the District Court of the Fifth Circuit (the district court), filed on May 7, 1999, from which this appeal is taken, is vacated and the case is remanded for a new trial because of failure of the district court to conduct a Tachibana colloquy. See Tachibana v. State, 79 Hawai'i 226, 900 P.2d 1293 (1995) (holding that trial court must advise criminal defendants of their right to testify and obtain an on-the-record waiver of that right in every case in which the defendant does not testify); State v. Staley, 91 Hawai'i 275, 982 P.2d 904 (1999) (holding that failure of circuit

court to obtain on-the-record waiver by a defendant of his right to testify, as set forth in Tachibana v. State, is plain error.

DATED: Honolulu, Hawai'i, August 24, 2000.

On the briefs:

Michael W. Wichman
for defendant-appellant.

Bryant Zane, Deputy
Prosecuting Attorney,
County of Kauai, for
plaintiff-appellee.