

NO. 25742

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

TONY ALAN WILLIAMS, Petitioner-Appellant, v.
STATE OF HAWAI'I, Respondent-Appellee

APPEAL FROM THE FIRST CIRCUIT COURT
(S.P.P. NO. 02-1-0076)

SUMMARY DISPOSITION ORDER

(By: Lim, Acting C.J., Foley and Nakamura, JJ.)

Petitioner-Appellant Tony Alan Williams (Williams) appeals the "Findings of Fact, Conclusions of Law, and Order Denying Petition to Vacate, Set Aside, or Correct Judgment or to Release Petitioner from Custody" filed on March 19, 2003, pursuant to Hawai'i Rules of Penal Procedure (HRPP) Rule 40, in the Circuit Court of the First Circuit¹ (circuit court).

On appeal, Williams contends (1) the circuit court erred in denying him a hearing; (2) the State violated his rights to discovery and elicited perjury from a witness; (3) Williams received ineffective assistance of trial counsel and appellate counsel; and (4) Williams had not previously raised these issues nor waived them in his first HRPP Rule 40 petition.

Upon careful review of the record and the briefs submitted by the parties, we hold that Williams does not assert

¹ The Honorable Victoria S. Marks presided.

any new claims in the present HRPP Rule 40 petition for which relief can be provided. The issues currently presented were previously raised and ruled upon, waived, or have no merit. Therefore, Williams did not show a colorable claim and the circuit court properly denied a hearing. HRPP Rule 40.

Therefore,

IT IS HEREBY ORDERED that "Findings of Fact, Conclusions of Law, and Order Denying Petition to Vacate, Set Aside, or Correct Judgment or to Release Petitioner from Custody" filed on March 19, 2003 in the Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, November 15, 2004.

On the briefs:

Tony Alan Williams,
petitioner-appellant pro se.

Bryan K. Sano,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for respondent-appellee.

Acting Chief Judge

Associate Judge

Associate Judge