

## NOT FOR PUBLICATION

NO. 26578

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

JEFFREY C. BEDNARZ, Petitioner-Appellant, v.  
STATE OF HAWAI'I, Respondent-Appellee

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STATE OF HAWAI'I

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FILED

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT  
(S.P.P. NO. 02-1-0011(3) (Cr. No. 00-1-0489))

SUMMARY DISPOSITION ORDER

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

Petitioner-Appellant Jeffery C. Bednarz (Bednarz) appeals from the "Order Denying, Without Evidentiary Hearing, Petition for Post-Conviction Relief" filed April 16, 2004 in the Circuit Court of the Second Circuit<sup>1/</sup> (circuit court).

On appeal, Bednarz contends (1) he made a colorable claim that he was denied his constitutional rights to assistance of counsel pursuant to both the Hawai'i and United States Constitutions because his trial attorney did not properly prepare his case for trial, and (2) the circuit court erred by denying him a hearing on his claim that he should be allowed to withdraw his guilty plea.

Upon careful review of the record and briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we hold

<sup>1/</sup> The Honorable Joseph E. Cardoza presided.

that the circuit court did not err in denying, without an evidentiary hearing, Bednarz's Petition for Post-Conviction Relief in that Bednarz's claims were either waived or patently frivolous and without a trace of support in the record or from other evidence submitted by Bednarz. Hawai'i Rules of Penal Procedure Rule 40(f); Barnett v. State, 91 Hawai'i 20, 26, 979 P.2d 1046, 1052 (1999). Additionally, Bednarz failed to support his ineffective assistance of counsel claims based on the failure to obtain witnesses with "affidavits or sworn statements describing the testimony of the proffered witnesses." State v. Richie, 88 Hawai'i 19, 39, 960 P.2d 1227, 1247 (1998).

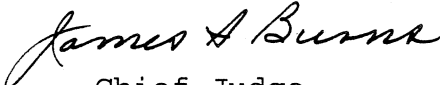
Therefore, the "Order Denying, Without Evidentiary Hearing, Petition for Post-Conviction Relief" filed April 16, 2004 in the Circuit Court of the Second Circuit is affirmed.


DATED: Honolulu, Hawai'i, December 20, 2005.

On the briefs:

Kyle B. Coffman  
for Petitioner-Appellant.

Arleen Y. Watanabe,  
Deputy Prosecuting Attorney,  
County of Mau'i,  
for Respondent-Appellee.

  
Chief Judge

  
Associate Judge

  
Associate Judge