

NOT FOR PUBLICATION

NO. 26166

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

STATE OF HAWAI'I, Respondent-Appellee, v
HARRY H. IKEDA, Petitioner-Appellant

K. HAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

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FILED

APPEAL FROM THE DISTRICT COURT OF THE FIFTH CIRCUIT
(SPP No. 03-1-0001)

SUMMARY DISPOSITION ORDER

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

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, we agree with the District Court of the Fifth Circuit^{1/} (the district court) that the claims raised by Petitioner-Appellant Harry H. Ikeda (Ikeda) in his Hawai'i Rules of Penal Procedure (HRPP) Rule 40 "Petition to Vacate, Set Aside, or Correct Judgment or to Release [Ikeda] from Custody[,]"^{2/} filed on October 9, 2003, were either previously ruled upon or waived, or

^{1/} The Honorable Frank D. Rothschild presided.

^{2/} The sole ground raised by Petitioner-Appellant Harry H. Ikeda (Ikeda) in his Hawai'i Rules of Penal Procedure Rule 40 "Petition to Vacate, Set Aside, or Correct Judgment or to Release [Ikeda] from Custody" was as follows:

State's wrongful institution of criminal prosecution of a civil breach of obligation claim of debt under H.R.S. Chapter 237 "general excise tax law" was instituted by bringing fraudulent charges of "willful" penal offenses taken from H.R.S. Chapter 231 "Administration of Taxes" not legally applicable to Chapter 237 which resulted in an unlawful criminal conviction, illegal judgment and unlawful imprisonment which violates article 1 section 19 of the Hawaii constitution, "there shall be no imprisonment for debt."

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were patently frivolous or meritless. HRPP Rule 40(a)(3) and (f). Furthermore, we conclude that Ikeda was not prejudiced by any failure of the district court to enter written findings of fact and conclusions of law regarding Ikeda's Rule 40 petition, since the district court orally stated on the record its findings and reasons for denying Ikeda's petition. See State v. Hauge, 103 Hawai'i 38, 49, 79 P.3d 131, 142 (2003); State v. Uganiza, 68 Haw. 28, 30 n.2, 702 P.2d 1352, 1354 n.2 (1985).

Accordingly, the Order entered by the District Court of the Fifth Circuit on October 24, 2003, denying Petitioner-Appellant Harry H. Ikeda's Hawai'i Rules of Penal Procedure Rule 40 "Petition to Vacate, Set Aside, or Correct Judgment or to Release [Ikeda] from Custody[,]" is affirmed.

DATED: Honolulu, Hawai'i, February 24, 2006.

On the briefs:

Harry H. Ikeda,
petitioner-appellant, pro se.

Lawrence A. Goya,
senior deputy attorney general,
State of Hawai'i,
for respondent-appellee.

James S. Burns
Cerwine K.A. Watanelle
