

NO. 29328

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

RICHARD BLAISDELL, Petitioner-Appellant, v.
STATE OF HAWAII, Respondent-Appellee

K. HAMAKADO
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STATE OF HAWAII

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FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(S.P.P. NO. 08-1-0005;
CR. NOS. 90-1541 and 92-2513)

SUMMARY DISPOSITION ORDER

(By: Watanabe, Acting Chief Judge, Foley and Leonard, JJ.)

Petitioner-Appellant Richard Blaisdell (**Blaisdell**) appeals the Order Summarily Denying Petition for Post-Conviction Relief Filed on January 29, 2008, filed in the Circuit Court of the First Circuit (**Circuit Court**) on July 30, 2008 (**Rule 40 Order**).^{1/}

On appeal, Blaisdell contends: (1) the Circuit Court erroneously found that Blaisdell previously filed three petitions in S.P.P. 99-0005; (2) the Circuit Court erroneously found that he did not file a Writ of Certiorari in S.P.P. 99-0005; and (3) Blaisdell was provided with ineffective assistance of trial and appellate counsel.^{2/}

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we resolve Blaisdell's points of error as follows:

(1) In Appellate No. 22758, which involved S.P.P. No. 99-0005, this court stated: "The circuit court's twenty-page

^{1/} The Honorable Virginia Lea Crandall presided.

^{2/} In the Answering Brief, the State requests that this court place some sort of limit on Blaisdell's right to file further post-conviction petitions in the Circuit Court. Such a request should be directed, in the first instance, to the Circuit Court.

Order dismissed the three petitions on grounds that the claims raised therein had either 'been raised and ruled upon previously' or were 'patently frivolous and without a trace of support.'" In a Memorandum Opinion for consolidated Appellate Nos. 23983 and 24098, this court stated: "On April 7, 1999, Blaisdell filed in the circuit court three HRPP Rule 40 petitions for post-conviction relief." Blaisdell v. State, 100 Hawai'i 322, 59 P.3d 957, 2002 WL 31761926 at *2. Therefore, the Circuit Court did not err by finding that Blaisdell filed three petitions in S.P.P. 99-0005.

(2) The Circuit Court did not state, in the Rule 40 Order, that Blaisdell failed to file a Writ of Certiorari. Therefore, Blaisdell's point of error is without merit.

(3) Blaisdell's claim of ineffective assistance of counsel was previously ruled upon in Appellate Nos. 23983, 24098, and 25146. Therefore, relief pursuant to Hawai'i Rule of Penal Procedure (HRPP) Rule 40 is not available. HRPP Rule 40(a)(3).

For these reasons, the Circuit Court's July 30, 2008 Rule 40 Order is affirmed.

DATED: Honolulu, Hawai'i, August 27, 2009.

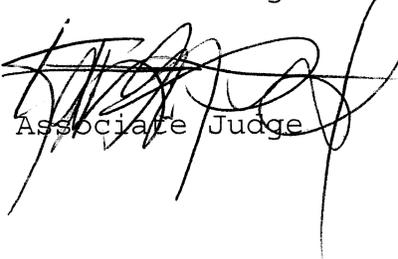
On the briefs:

Richard Blaisdell
Petitioner-Appellant

Brian R. Vincent
for Respondent-Appellee


Acting Chief Judge


Associate Judge


Associate Judge