

*** NOT FOR PUBLICATION ***

NO. 26111

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellant,

vs.

RICKY N. H. ABORDO, Defendant-Appellee.

NORMA I YARA
CLERK APPELLATE COURTS
STATE OF HAWAII

2005 AUG 26 AM 8:03

FILED

APPEAL FROM THE SECOND CIRCUIT COURT
(CR. NO. 02-1-0581(1))

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Plaintiff-appellant the State of Hawai'i (the State) appeals from the August 26, 2003 findings of fact, conclusions of law, and order of the circuit court of the second circuit, the Honorable Joel E. August presiding, granting defendant-appellee Ricky N.H. Abordo's motion to suppress.

The circuit court ordered suppression in part because the warrant that authorized a search for the evidence seized erroneously commanded police to search a location different from that described in the warrant's recitation of probable cause. On appeal, the State contends that suppression based on this discrepancy was wrong because: (1) a mere typographical error should not invalidate the seizure of evidence from a location sufficiently described in the warrant; and (2) the error did not prejudice Abordo.

Upon carefully reviewing the record and the briefs submitted by the parties, and having given due consideration to the arguments advanced and the issues raised, we hold that:

(1) the search warrant violated Hawai'i Rules of Penal Procedure

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(HRPP) Rule 41(c) (2002) because it commanded police to search a location different from that described in the warrant's recitation of probable cause; and (2) the violation of HRPP Rule 41(c) required the fruits of the search to be suppressed. See State v. Endo, 83 Hawai'i 87, 924 P.2d 581 (App. 1996).

Therefore,

IT IS HEREBY ORDERED that the order from which the appeal is taken is affirmed.

DATED: Honolulu, Hawai'i, August 26, 2005.

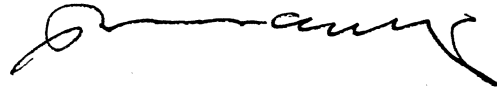
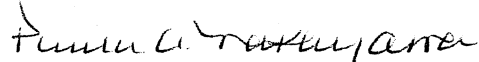
On the briefs:

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State of Hawai'i

Bentley C. Adams, III,
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Ricky N.H. Abordo



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