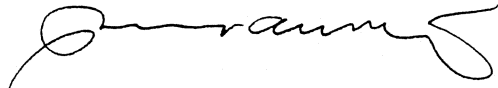


NOT FOR PUBLICATION

CONCURRING AND DISSENTING OPINION BY
ACOPA, J., WITH WHOM DUFFY, J., JOINS

I concur in the order, except with respect to the procedure employed as to the imposition of an extended term sentence as to which I disagree, based on the reasons set forth in the dissenting opinion in State v. Rivera, 106 Hawai'i 146, 102 P.3d 1044 (2004).



James E. Duffy, Jr.