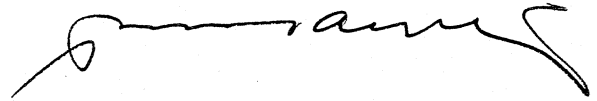


DISSENT BY ACOBA, J.

According to State v. Mamalias, 69 Haw. 581, 751 P.2d 1029 (1988), although Defendant is not entitled to a new appeal, he should be entitled to other relief. In Mamalias, the appeal was dismissed but the case remanded with instructions to vacate the order and hold a hearing on the merits of the defendant's claims. Id. at 583, 751 P.2d at 1030. In this case, if there was ineffective assistance of counsel in failing to take an appeal, Defendant should be entitled to a new trial. Therefore, I would grant the motion for reconsideration.

A handwritten signature in black ink, appearing to read "ACoba", is written across the lower right portion of the page.