

NO. 26384

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Respondent-Appellee,

vs.

ALBERT R. BATALONA, Petitioner-Appellant.

NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAII

2006 MAR 13 PM 2:12

FILED

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(CR. NO. 03-1-0787)

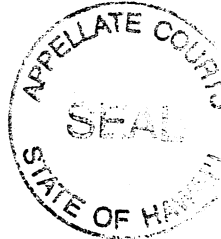
ORDER DENYING APPLICATION FOR WRIT OF CERTIORARI
(By: Nakayama, J., for the court¹)

Petitioner-Appellant's application for writ of certiorari filed on March 2, 2006, is hereby denied.

DATED: Honolulu, Hawai'i, March 13, 2006.

FOR THE COURT:

Hume A. Nakayama
Associate Justice



DISSENT BY ACOBA, J., IN WHICH DUFFY, J., JOINS

I respectfully dissent from the denial of certiorari. Based on my dissent in State v. Rivera, 106 Hawai'i 146, 102 P.3d 1044 (2004), I would grant certiorari and vacate the circuit court's sentence.

Mary Ann Barnard
for petitioner-appellant
on the writ

[Signature]
James E. Duffy, Jr.

¹Considered by: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.