

NO. 22128

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
BENJAMIN D. NIHI, Defendant-Appellant.

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT  
(CR. NO. 98-0096)

SUMMARY DISPOSITION ORDER

(By: Burns, C.J., Watanabe and Lim, JJ.)

In accordance with Hawai'i Rules of Appellate Procedure Rule 35, and after carefully reviewing the record and the briefs submitted by the parties and duly considering and analyzing the law relevant to the arguments and issues raised by the parties,

IT IS HEREBY ORDERED that the court's December 7, 1998 Judgment; Guilty Conviction and Sentence from which the appeal is taken is affirmed without prejudice, however, to a Hawai'i Rules of Penal Procedure Rule 40 proceeding alleging ineffective assistance of counsel.

DATED: Honolulu, Hawai'i, October 6, 2000.

On the briefs:

John H. Murphy for  
defendant-appellant.

Chief Judge

Dena M. Renti Cruz,  
Deputy Prosecuting Attorney,  
County of Kauai,  
for plaintiff-appellee.

Associate Judge

Associate Judge