

NO. 22820

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
EDWIN QUIRIMIT, also known as Edwin L. Quirimit,
Defendant-Appellant, and TESSIE ESPERANZA,
Defendant

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 97-2918)

SUMMARY DISPOSITION ORDER

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

On April 27, 1998, Defendant-Appellant Edwin Quirimit, also known as Edwin L. Quirimit (Quirimit), pleaded guilty to Promoting a Dangerous Drug in the Third Degree, Hawai'i Revised Statutes (HRS) § 712-1243 (1993) and Prohibited Acts Related to Drug Paraphernalia (complaint charged as "Unlawful Use of Drug Paraphernalia"), HRS § 329-43.5(a) (1993). Quirimit's written guilty plea stated, "I PLEAD GUILTY TO TAKE ADVANTAGE OF THE PLEA AGREEMENT WITH THE STATE." It further stated that the only promise made to him was that Plaintiff-Appellee State of Hawai'i had agreed "[t]o recommend to the Judge that I receive a mandatory minimum sentence of 1 year 2 months incarceration, rather than 1 year 8 months which may otherwise be required." Pursuant to the plea agreement, Quirimit was sentenced that same day to concurrent five-year terms of imprisonment for each count

with a reduced mandatory minimum of one year and two months as a repeat offender on the conviction of Promoting a Dangerous Drug in the Third Degree.

A year later, on April 12, 1999, prior counsel for Quirimit filed a Motion to Withdraw as Counsel and Have Substitute Counsel Appointed. In his Declaration of Counsel accompanying the motion, prior counsel stated, in relevant part, as follows: "Declarant was contacted on March 15, 1998 by attorney Ryan Tomasa and was informed that as a result of [Quirimit's] plea on April 27, 1998, [Quirimit] faces deportation. . . . [Quirimit's] deportation hearing is set for April 30, 1999 at 8:00 a.m." The motion was granted.

On August 26, 1999, Quirimit and his new counsel filed Defendant Edwin Quirimit's Motion to Withdraw Guilty Plea. After a hearing on the motion, the court stated that

[t]he evidence presented consists entirely of a transcript of the change of plea hearing on April 27, 1998 and sentencing and the stipulated testimony of the defendant. The court, after reviewing all of the evidence, is not persuaded that the manifest injustice has occurred. Court will find [Quirimit] has not met [his] burden and for that reason the motion is denied.

The September 14, 1999 Order Denying Defendant Edwin Quirimit's Motion to Withdraw Guilty Plea followed.

Quirimit appeals the September 14, 1999 Order and contends that: (1) he did not understand the nature and consequences of his guilty plea; (2) he received "questionable advice" from his prior counsel regarding the change

of plea; and (3) he suffered from the absence of a Tagalog language interpreter. The record clearly shows otherwise.

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 order from which the appeal is taken, filed on September 14, 1999, is affirmed.

DATED: Honolulu, Hawai'i, March 5, 2001.

On the briefs:

Jeffrey T. Arakaki
for Defendant-Appellant.

Chief Judge

Loren J. Thomas,
Deputy Prosecuting Attorney,
City and County of Honolulu,
for Plaintiff-Appellee.

Associate Judge

Associate Judge