

**Electronically Filed  
Intermediate Court of Appeals  
CAAP-11-0000708  
31-JAN-2012  
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NO. CAAP-11-0000708

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.  
LINCOLN PHILLIPS, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(CR. NO. 08-1-1430)

ORDER GRANTING WITHOUT PREJUDICE  
DEFENDANT-APPELLANT'S MOTION TO DISMISS  
APPEAL FOR LACK OF APPELLATE JURISDICTION

(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon consideration of Motion to Dismiss Appeal for Lack of Jurisdiction Without Prejudice filed by Defendant-Appellant Lincoln Phillips (Phillips), the papers in support, and the records and files herein, it appears that: (1) on August 29, 2011, the Circuit Court of the First Circuit entered a Judgment of Conviction and Sentence which sentenced Phillips to incarceration for life, with the possibility of parole, certain fees and assessments, and noted, "RESTITUTION: Amount to be

determined at hearing on November 1, 2011; Free-standing order"; (2) on September 27, 2011, Phillips filed a notice of appeal from the judgment of conviction and sentence entered on August 29, 2011; (3) the notice of appeal was docketed as CAAP-11-708; (4) on December 12, 2011, the circuit court issued an Amended Judgment of Conviction and Sentence, and (5) Phillips filed a notice of appeal on January 10, 2012, which was docketed as CAAP-12-20. Therefore,

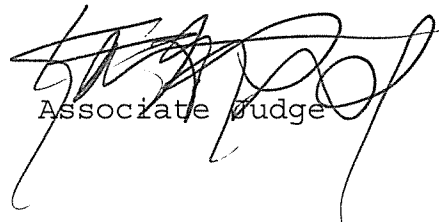
IT IS HEREBY ORDERED the motion to dismiss appeal without prejudice to review on the merits in CAAP-12-20 is granted.

IT IS FURTHER ORDERED that, when the record on appeal is due in CAAP-12-20, the clerk of Circuit Court of the First Circuit shall file the entire record in CR No. 08-1-1430, including exhibits and transcripts, in CAAP-12-20.

DATED: Honolulu, Hawai'i, January 31, 2012.

  
Presiding Judge

  
Associate Judge

  
Associate Judge