

NO. CAOT-12-0000048

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

ARWIN R. ECHINEQUE, Petitioner-Appellant, v.
STATE OF HAWAII, Respondent-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(S.P.P. NO. 10-1-0066; CR. NO. 06-1-1633)

ORDER DISMISSING WITHOUT PREJUDICE
PETITIONER-APPELLANT'S COMPLAINT FILED ON MARCH 08, 2012
(By: Foley, Presiding Judge, Leonard and Ginoza, JJ.)

Upon consideration of the complaint filed by Petitioner Arwin E. Echineque (Petitioner) on March 08, 2012 in this court, the papers in support, and the records and files herein, it appears that: (1) Petitioner has a Hawaii Rules of Penal Procedure (HRPP) Rule 40 petition for post-conviction relief pending in the Circuit Court of the First Circuit (circuit court), Echineque v. State, SPP No. 10-1-0066; (2) Petitioner filed this complaint in the Intermediate Court of Appeals asserting issues and arguments that should be presented in the HRPP Rule 40 proceeding; and (3) pursuant to HRS § 602-57 (Supp. 2010), the Intermediate Appellate Court does not have original jurisdiction to address the issues raised in the complaint.

Therefore, IT IS HEREBY ORDERED that the March 08, 2012 complaint filed by Petitioner is dismissed without prejudice to Petitioner presenting his arguments in the HRPP Rule 40 petition for post-conviction relief pending in the circuit court and without prejudice to any subsequent appeal pursuant to HRPP Rule 40(h), after the circuit court issues its disposition on the pending HRPP Rule 40 petition.

DATED: Honolulu, Hawaii, March 30, 2012.

Presiding Judge

Associate Judge

Associate Judge