

NO. CAAP-12-00001088

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

JAMES MUNDON, Petitioner-Appellant
v.
STATE OF HAWAI'I, Respondent-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(S.P.P. NO. 12-1-0002, CR. NO. 05-1-0206)

ORDER GRANTING RESPONDENT-APPELLEE STATE OF HAWAI'I'S
MOTION TO DISMISS PETITIONER-APPELLANT'S APPEAL
(By: Nakamura, C.J., Foley and Ginoza, JJ.)

Upon consideration of the Motion to Dismiss Appeal by Respondent-Appellee State of Hawai'i, filed on March 5, 2013, the attachments thereto, the lack of an opposition, and the files herein, it appears that:

(1) In a Petition to Vacate, Set Aside, or Correct Judgment or to Release Petitioner From Custody (Petition) filed on July 27, 2012 by Petitioner-Appellant James Mundon (Mundon), Mundon challenged the minimum sentences imposed by the Hawaii Paroling Authority in Cr. No. 5-1-0206 for his felony convictions for Attempted Sexual Assault in the First Degree (Count I) and, Kidnapping (Count II).

(2) On November 30, 2012, Mundon's Petition was denied.

(3) On December 5, 2012, in Cr. No. 5-1-0206, the Hawai'i Supreme Court vacated Mundon's convictions for Counts I and II.

(4) The overturning of Mundon's convictions on Counts I and II eliminated Mundon's minimum sentences in Cr. No. 5-1-0206 for Counts I and II which he challenged in the Petition. Therefore, his challenge to those minimum sentences is moot.

IT IS HEREBY ORDERED that the motion to dismiss is granted and this appeal is dismissed as moot.

DATED: Honolulu, Hawai'i, March 20, 2013.

Chief Judge

Associate Judge

Associate Judge