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Intermediate Court of Appeals
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NO. CAAP-12-000013

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
DIETRICH W. WASHINGTON, Defendant, and
EXODUS BAIL BOND, Real Party in Interest-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 11-1-1255)

SUMMARY DISPOSITION ORDER

(By: Nakamura, Chief Judge, Foley and Leonard, JJ.)

Real-Party-in-Interest/Appellant Exodus Bail Bond (Exodus) appeals from the December 12, 2011 Order Denying Defendant's Motion to Set Aside Bail Forfeiture (Order re Forfeiture) entered by the Circuit Court of the First Circuit (Circuit Court).^{1/}

On appeal, Exodus fails to identify points of error, fails to provide any citations to the record, and otherwise fails to comply with the requirements of Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b). Exodus contends that the Order re Forfeiture is void and should be set aside because the Office of the Prosecuting Attorney (Prosecutor) is not permitted to represent the State of Hawai'i in a bail forfeiture proceeding.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to

^{1/} The Honorable Randal K.O. Lee presided.

the arguments advanced and the issues raised by the parties, as well as the relevant statutory and case law, we address Exodus's appeal as follows:

HRAP Rule 28(b)(4) provides that "[p]oints not presented in accordance with [HRAP Rule 28(b)] will be disregarded, except that the appellate court, at its option, may notice a plain error not presented."

Moreover, in the proceedings before the Circuit Court, Exodus did not raise its claim that the Prosecutor may not represent the State's interests in a bond forfeiture proceeding. "As a general rule, if a party does not raise an argument at trial, that argument will be deemed to have been waived on appeal; this rule applies in both criminal and civil cases." State v. Moses, 102 Hawai'i 449, 456, 77 P.3d 940, 947 (2003). This court will consider new arguments when justice so requires. Id. However, under the circumstances of this case, and in light of the issue presented, Exodus's argument is deemed waived.

Accordingly, the December 12, 2011 Order re Forfeiture is affirmed.

DATED: Honolulu, Hawai'i, May 16, 2013.

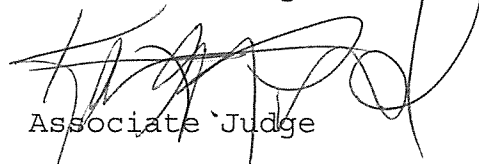
On the briefs:

Tae Won Kim
for Real Party In Interest-
Appellant

James M. Anderson
Deputy Prosecuting Attorney
City and County of Honolulu
for Plaintiff-Appellee


Chief Judge


Associate Judge


Associate Judge