

NO. CAAP-12-0000380

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
CHRISTOPHER LEE SLAVICK, Defendant-Appellee, and
JANIS H. FERNANDEZ d/b/a EXODUS BAIL BOND,
Real Party in Interest-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 04-1-1534)

SUMMARY DISPOSITION ORDER

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

Real-Party-in-Interest/Appellant Janis H. Fernandez d/b/a Exodus Bail Bond (**Exodus**) appeals from the March 28, 2012 Order Denying Motion to Set Aside Bail Forfeiture (**Order re Forfeiture**) 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 Karen S.S. Ahn 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 March 28, 2012 Order re Forfeiture is affirmed.

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

On the briefs:

Janis Fernandez d/b/a
Exodus Bail Bond, Pro Se
and
Tae Won Kim
for Real Party in Interest-
Appellant

Chief Judge

Associate Judge

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

Associate Judge