

NO. CAAP-15-0000067

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
PIERRE HERNANDEZ, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(HONOLULU DIVISION)
(CASE NO. 1DCW-14-0005133)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Pierre Hernandez (**Hernandez**) appeals from the Notice of Entry of Judgment and/or Order entered on January 7, 2015 (**Judgment**), by the District Court of the First Circuit, Honolulu Division (**District Court**),¹ after the District Court accepted Hernandez's no contest plea on the charge of Harassment by Stalking in violation of Hawaii Revised Statutes § 711-1106-6.5 (2014). Hernandez's plea was made pursuant to his Hawaii Rules of Penal Procedure Rule 43 Plea by mail in which Hernandez, *inter alia*, waived his right to be present, authorized

¹ The Honorable Lono J. Lee presided.

his lawyer to represent him without his presence, and gave up his right to be questioned in open court.

On appeal, Hernandez contends that the District Court plainly erred because the District Court did not personally address him regarding the possibility of being deported as a consequence of his plea and did not personally address him as to his right of allocution prior to sentencing. However, Hernandez's claims are not jurisdictional, he filed no motion to withdraw his plea, and his no contest plea was not conditional. Thus, Hernandez is precluded from "later asserting any nonjurisdictional claims [to his no contest plea], including constitutional challenges to the pretrial proceedings." State v. Morin, 71 Haw. 159, 162-63, 785 P.2d 1316, 1318-19 (1990); see also Schwartz v. State, 136 Hawai'i 258, 281, 361 P.3d 1161, 1184 (2015) (citing Morin, 71 Haw. at 162, 785 P.2d at 1318).

Accordingly, the District Court's January 7, 2015 Judgment is affirmed.

DATED: Honolulu, Hawai'i, March 18, 2017.

On the briefs:

Reiko A. Bryant,
Deputy Public Defender,
for Defendant-Appellant.

Presiding Judge

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

Associate Judge

Associate Judge