

NO. CAAP-18-0000110

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

STATE OF HAWAI'I, Plaintiff-Appellee,
v.
LANCE K. GOMES, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIFTH CIRCUIT
(CR. NO. 5DCC-17-0000454)

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Ginoza, Chief Judge, Leonard and Reifurth, JJ.)

Upon review of the record, we lack appellate jurisdiction over Defendant-Appellant Lance K. Gomes's (Gomes), pro se, appeal in appellate court case number CAAP-18-0000110. It appears that Gomes appeals from a January 14, 2018 interlocutory order by the District Court of the Fifth Circuit acknowledging Gomes's plea of not guilty to Plaintiff-Appellee State of Hawaii's (the State) citation for criminal trespass in the second degree in violation of HRS § 708-814 (Supp. 2017), and scheduling Gomes's bench trial in district court criminal case number 5DCC-17-0000454 for March 15, 2018.

"The right to an appeal is strictly statutory." State v. Ontiveros, 82 Hawai'i 446, 449, 923 P.2d 388, 391 (1996) (citation omitted). HRS § 641-12(a) (2016) provides that "[a]ppeals upon the record shall be allowed from all final decisions and final judgments of district courts in all criminal matters." "[I]n order to appeal a criminal matter in the district court, the appealing party must appeal from a written

judgment or order that has been filed with the clerk of the court pursuant to HRAP Rule 4(b)(3)." State v. Bohannon, 102 Hawai'i 228, 236, 74 P.3d 980, 988 (2003); see also Rule 32(c)(2) of the Hawai'i Rules of Penal Procedure. And even when the district court enters a judgment of conviction, "[j]udgments of conviction are not final unless they include the final adjudication and the final sentence." State v. Kilborn, 109 Hawai'i 435, 442, 127 P.3d 95, 102 (App. 2005) (dismissing an appeal from a district court judgment of conviction that did not finally determine the entire sentence).

In the instant case, it appears that the district court did not hold a bench trial on March 15, 2018, and, instead, the district court continued the bench trial. In short, there is no appealable final judgment, the January 14, 2018 interlocutory order is not eligible for appellate review, and Gomes's appeal is premature.

Therefore, IT IS HEREBY ORDERED that appellate court case number CAAP-18-0000110 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, June 12, 2018.

Chief Judge

Associate Judge

Associate Judge