

**Electronically Filed
Intermediate Court of Appeals
CAAP-11-0000574
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NO. CAAP-11-0000574

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellant/Cross-Appellee,
v.
PATRICK W. DEGUAIR, JR., Defendant-Appellee/Cross-Appellant,
and
ARYSS DAYNE K. KAMAI, Defendant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 08-1-0533)

ORDER GRANTING MOTION FOR LEAVE TO WITHDRAW STATE'S APPEAL
(By: Nakamura, C.J., Foley and Reifurth, JJ.)

Upon consideration of Motion for Leave to Withdraw State's Appeal filed by Plaintiff-Appellant/Cross-Appellee State of Hawaii, the papers in support, and the records and files herein, it appears that: (1) Plaintiff-Appellee State of Hawaii is moving to withdraw its appeal with the parties to bear their own costs and fees; and (2) Defendant-Appellee/Cross-Appellant Patrick W. Deguair is represented by court-appointed counsel, and any request for attorney's fees and costs filed by court-appointed counsel is governed by HRS § 802-5 and Hawaii Rules of Appellate Procedure (HRAP) Rule 39(d). Therefore,

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

IT IS HEREBY ORDERED that:

1. The motion for leave to withdraw the State's appeal is granted, and the State's appeal is dismissed. Defendant-Appellee/Cross-Appellant Patrick W. Deguair, Jr.'s cross-appeal remains pending.

2. The request that the dismissal provide that the parties shall bear their own fees and costs is denied. Court-appointed counsel may file in the cross-appeal his request for fees and costs in accordance with HRS § 802-5 and HRAP Rule 39(d).

3. The clerk of the Circuit Court of the First Circuit shall transmit the record on appeal within the time provided by HRAP Rule 11.

DATED: Honolulu, Hawai'i, September 22, 2011.


Chief Judge


Associate Judge


Associate Judge