

NO. CAAP-11-0000574

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

STATE OF HAWAI'I, 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 Hawai'i, the papers in support, and the records and files herein, it appears that: (1) Plaintiff-Appellee State of Hawai'i 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 Hawai'i Rules of Appellate Procedure (HRAP) Rule 39(d). Therefore,

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