

**Electronically Filed
Intermediate Court of Appeals
CAOT-12-0000048
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NO. CAOT-12-0000048

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

ARWIN R. ECHINEQUE, Petitioner-Appellant, v
STATE OF HAWAI'I, Respondent-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(S.P.P. NO. 10-1-0066; CR. NO. 06-1-1633)

ORDER DISMISSING WITHOUT PREJUDICE
PETITIONER-APPELLANT'S COMPLAINT FILED ON FEBRUARY 23, 2012
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon consideration of the complaint filed by Petitioner Arwin E. Echineque (Petitioner), the papers in support, and the records and files herein, it appears that: (1) Petitioner has a HRPP Rule 40 petition for post conviction relief pending in the Circuit Court of the First Circuit (circuit court), Echineque v. State, S.P.P. No. 10-1-0066; (2) Petitioner filed this complaint in the Intermediate Court of Appeals asserting issues and arguments that should be presented in the HRPP Rule 40 proceeding; and (3) pursuant to HRS § 602-57 (Supp. 2010), the Intermediate Appellate Court does not have original jurisdiction to address the issues raised in the complaint. Therefore,

IT IS HEREBY ORDERED that the complaint filed by
Petitioner is dismissed without prejudice to Petitioner
presenting his arguments in the Hawai'i Rules of Penal Procedure
(HRPP) Rule 40 petition for post conviction relief pending in the
circuit court and without prejudice to any subsequent appeal
pursuant to HRPP Rule 40(h) after the circuit court issues its
disposition on the pending HRPP Rule 40 petition.

DATED: Honolulu, Hawai'i, March 1, 2012.


Daniel R. Foley
Presiding Judge


Anna Abu Jiza
Associate Judge


Associate Judge