

NO. CAAP-14-0000501

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
BARABBAS DIETRICH, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 05-1-0184)

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon review of the record on appeal in CAAP-14-0000501, it appears that this court lacks appellate jurisdiction. Defendant-Appellant Barabbas Deitrich (Appellant) appeals from the "January 29, 2014 Order of the Circuit Court denying Defendant Barabbas Dietrich's Motion to Correct or Reduce Defendant's Sentence."

In CAAP-13-0001055, this court dismissed Appellant's prior appeal because Appellant appealed from the denial of his Ex-Parte Motion for Litigation Expenses (HRS § 802-7). This court held that the denial of the Ex-Parte Motion for Litigation Expenses (HRS § 802-7) was an interlocutory order related to the determination of Appellant's December 9, 2011 Motion for Correction or Reduction of Sentence or Bail Pending Appeal. Thus, this court dismissed Appellant's prior appeal for lack of jurisdiction because "the circuit court did not enter a final order regarding the Motion for Correction or Reduction of Sentence or Bail Pending Appeal[.]"

On February 26, 2014, Appellant filed this appeal. Appellant points to circuit court minutes dated January 29, 2014 as evidence of entry of a final order denying his Motion for Correction or Reduction of Sentence or Bail Pending Appeal. "HRAP Rule 4(b) - - which, by its plain language, makes no distinction between proceedings in the district or circuit courts - - requires that a final and appealable judgment or order in criminal cases be in written form." State v. Bohannon, 102 Hawai'i 228, 235, 74 P.3d 980, 987 (2003) (citing State v. Ho, 7 Haw. App. 516, 518-19, 782 P.2d 29, 21 (1989)). Court minutes do not substitute for a written judgment or order; they are merely for the court's own use. State v. English, 68 Haw. 46, 52, 705 P.2d 12, 16 (1985) (citing Rule 27 of the Rules of the Circuit Court). The record on appeal does not contain a written final appealable order regarding the Motion for Correction or Reduction of Sentence or Bail Pending Appeal. Therefore, this court lacks appellate jurisdiction.

THEREFORE, IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, May 7, 2014.

Presiding Judge

Associate Judge

Associate Judge