

NO. CAAP-16-0000486

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
MICHAEL JOHN MISKE, JR., Defendant-Appellant, and
JOHN BLANE KENUI STANCIL, Defendant-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 13-1-0735)

ORDER DISMISSING THE APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Nakamura, C.J., Fujise and Reifurth, JJ.)

Upon review of the record on appeal, it appears this court lacks appellate jurisdiction because no judgment as defined in Hawaii Revised Statutes (HRS) § 641-11 has been entered in Cr. No. 13-1-0735. Defendant-Appellant Michael John Miske, Jr. (Appellant) appeals from Findings of Fact and Conclusions of Law and Order Granting Defendant's Motion to Dismiss for Violation of Hawai'i Rules of Penal Procedure (HRPP) Rule 48 or Defendant's Right to a Speedy Trial, filed on May 26, 2016 in the Circuit Court of the First Circuit (Circuit Court).

Appellant brings this appeal pursuant to HRS § 641-11 which provides in pertinent part, "[a]ny party aggrieved by the judgment of a circuit court in a criminal matter may appeal to the intermediate appellate court, subject to chapter 602, in the manner and within the time provided by the rules of court. The sentence of the court in a criminal case shall be the judgment." HRS § 641-11 (2010) (emphasis added). This case was dismissed without prejudice by the Circuit Court for violation of HRPP Rule 48 and therefore no sentence has been imposed. Therefore, Appellant may not appeal pursuant to HRS § 641-11.

IT IS HEREBY ORDERED that the appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, December 9, 2016.

Chief Judge

Associate Judge

Associate Judge