

NO. CAAP-17-0000378

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

STATE OF HAWAI'I, Plaintiff-Appellee,
v.
PHILIP BIKLE, Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT
(CASE NO. 3DTI-16-016896)

ORDER DENYING FEBRUARY 9, 2018 HRAP RULE 40 MOTION
FOR RECONSIDERATION OF FEBRUARY 1, 2018 ORDER OF DISMISSAL
AND

ORDER OF CORRECTION OF FEBRUARY 1, 2018 ORDER
(By: Leonard, Presiding Judge, Reifurth and Ginoza, JJ.)

Upon review of (1) the February 1, 2018 order granting Plaintiff-Appellee State of Hawaii's (State) November 17, 2017 motion to dismiss Defendant-Appellant Philip Bikle's (Bikle), pro se, appeal, (2) Bikle's February 9, 2018 motion for reconsideration of the February 1, 2018 order of dismissal, pursuant to Rule 40 of the Hawai'i Rules of Appellate Procedure (HRAP), and (3) the record, it appears that we did not overlook or misapprehend any points of law or fact when we entered the February 1, 2018 order of dismissal. Bikle's reliance on State v. Baranco, 77 Hawai'i 351, 884 P.2d 729 (1994) is misplaced because his appeal does not involve an order denying a motion to dismiss on double jeopardy grounds, as in Baranco. Further, his claim that we have jurisdiction under Hawaii Revised Statutes

§ 641-1(b) is incorrect, because only circuit courts (not district courts) may allow an interlocutory appeal under that statute.

We note however, that the February 1, 2018 order of dismissal contains a clerical error in that it refers to Bikle as Michael Bikle rather than Philip Bikle.

Therefore, IT IS HEREBY ORDERED that Bikle's February 9, 2018 HRAP Rule 40 motion for reconsideration of the February 1, 2018 order of dismissal is denied.

IT IS FURTHER HEREBY ORDERED that the February 1, 2018 order of dismissal is corrected to reflect that all references to Bikle refer to Defendant-Appellant Philip Bikle, and not Michael Bikle.

DATED: Honolulu, Hawai'i, February 14, 2018.

Presiding Judge

Associate Judge

Associate Judge