

FAX Distribution to:

☒ Prosecutor 808 241-1758
☒ Defense Attorney
 ☐ Public Defender 808 274-3422
 ☐ Private Attorney _____
☒ Adult Probation 808 482-2652
☐ State Designate 808 832-1855
☐ 2nd Examiner Dr. _____
☐ 3rd Examiner Dr. _____
☒ KCMHC Forensics 808 241-3133
☐ AMHD Forensics 808 777-6169
☒ Sheriff Division 808 482-2389
☒ KPD Cellblock 808 241-1645
☐ KCCC 808 241-3059
☐ OCCC 808 832-1412
☐ HSH Forensics 808 236-8716
☐ Kahi Mohala 808 677-2810
☐ Other _____
☐ Other _____

**IN THE _____ COURT OF THE FIFTH CIRCUIT
STATE OF HAWAII**

STATE OF HAWAII

vs.

Defendant

CASE NO. _____

REPORT NO. _____

MOTION FOR REVOCATION OF
CONDITIONAL RELEASE, AND
APPLICATION FOR BENCH
WARRANT; ORDER; DECLARATION
OF COUNSEL; EXHIBITS "A" & "B";
NOTICE OF MOTION; CERTIFICATE
OF SERVICE
[HRS §704-413]

Judge: _____

Hearing to be set upon securing
Defendant in custody

**MOTION FOR REVOCATION OF CONDITIONAL RELEASE
AND APPLICATION FOR BENCH WARRANT**

Comes now the STATE OF HAWAI'I, by and through Deputy Prosecuting Attorney _____, and respectfully moves this Honorable Court, pursuant to Section 704-413, Hawaii Revised Statutes, for an order revoking the Conditional Release granted to the above-named Defendant.

In furtherance of the instant motion, the STATE OF HAWAI'I makes application to this Court for the immediate issuance of a Bench Warrant directing that the Defendant be taken into physical custody and be brought forthwith before this Court to answer the allegations stated herein.

This motion is based upon the records and files herein and upon the report and declaration hereto, Sections 704-413, et. seq., Hawai'i Revised Statutes, as amended, and any evidence to be presented at the hearing of this matter.

Dated: Lihue, Hawai'i, _____.

Deputy Prosecuting Attorney

IN THE _____ COURT OF THE FIFTH CIRCUIT

STATE OF HAWAI'I

STATE OF HAWAI'I	)	CASE NO.
	)	REPORT NO.
vs.)	
	)	DECLARATION OF COUNSEL
)	
,)	
)	
Defendant.)	

DECLARATION OF COUNSEL

I, _____, declare:

1. I am the Deputy Prosecuting Attorney for the County of Kauai, State of Hawai'i, presently assigned to prosecute the Defendant.

2. I have reviewed the records and file for the above-identified case and find that the Defendant was placed on Conditional Release by order of the above-entitled Court on _____. A true and correct copy of said court order is attached hereto as Exhibit "A".

3. I reviewed a copy of an affidavit from _____, a probation officer of the Adult Client Services Branch, Fifth Judicial Circuit, which set forth one or more violations of the Defendant's Conditions of Release. A true and correct copy of said affidavit is attached hereto as Exhibit "B".

4. Defendant's actions, as described in said affidavit, constitute a material violation of the terms and conditions of Defendant's Conditional Release.

WHEREFORE, I respectfully request that Defendant's Conditional Release be revoked.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS
TRUE AND CORRECT.

Dated: Lihue, Hawai'i, _____.

Deputy Prosecuting Attorney

IN THE _____ COURT OF THE FIFTH CIRCUIT
STATE OF HAWAI'I

STATE OF HAWAI'I)	CASE NO.
	)	REPORT NO.
vs.)	
	)	NOTICE OF MOTION
)	
,)	
)	
Defendant.)	

NOTICE OF MOTION

TO: ☐ Deputy Public Defender ☐ _____
3060 Eiwa Street, Room 206 _____
Lihue, Hawai'i 96766 _____

PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion on for hearing before the Honorable Presiding Judge of the above-entitled Court at the Kauai Judiciary Complex, 3970 Kaana Street, Lihue, Hawai'i, on a date to be set upon the physical detention of the Defendant, or as soon thereafter as counsel can be heard.

Dated: Lihue, Hawai'i, _____.

Deputy Prosecuting Attorney

CERTIFICATE OF SERVICE

I hereby certify that an unfiled copy of the foregoing document has been served
on the above-named attorney for Defendant, by mailing same on

_____.

IN THE _____ COURT OF THE FIFTH CIRCUIT

STATE OF HAWAI'I

STATE OF HAWAI'I	)	CASE NO.
	)	REPORT NO.
vs.)	
	)	ORDER GRANTING APPLICATION
	)	FOR BENCH WARRANT
,)	
)	
Defendant.)	

ORDER GRANTING APPLICATION FOR BENCH WARRANT

The State of Hawai'i's Motion for Revocation of Conditional Release and Application for Bench Warrant, having been filed in the above-captioned case on _____, and good cause appearing therefor,

IT IS HEREBY ALLOWED AND ORDERED that the Bench Warrant issue forthwith.

Dated: Lihue, Hawai'i, _____.

Judge

IN THE _____ COURT OF THE FIFTH CIRCUIT

STATE OF HAWAI'I

STATE OF HAWAI'I)	CASE NO.
	)	REPORT NO.
vs.)	
)	
	)	OFFICER'S RETURN
,)	
)	
Defendant.)	

OFFICER'S RETURN

Executed the within Bench Warrant by taking Defendant above-named into physical custody at _____ o'clock _____.m., this _____ day of _____, 20____, at _____, Hawai'i. A copy of the Motion for Revocation of Conditional Release filed in the above-entitled case was also served upon the Defendant at this time.

Arresting Officer

Date_____

TO THE SERVING OFFICER:

State vs. _____

DOB:

Last 4 digits of SSN:

Last Known Address:

Last Known Telephone:

IN THE _____ COURT OF THE FIFTH CIRCUIT
STATE OF HAWAII

STATE OF HAWAII)	CASE NO.
	)	REPORT NO.
vs.)	
)	
	)	BENCH WARRANT
,	)	(Non-compliance with <u>Conditional</u>
	)	<u>Release</u>) [HRS § 704-413(4)]
Defendant.)	

BENCH WARRANT (HRS § 704-413(4))

THE STATE OF HAWAII:

TO THE CHIEF OF POLICE OF THE COUNTY OF KAUAI, HIS/HER ASSISTANT, OR
ANY POLICE OFFICER IN THE STATE OF HAWAII, OR ANY OTHER OFFICER
AUTHORIZED BY LAW TO SERVE THIS BENCH WARRANT:

YOU ARE HEREBY COMMANDED to take physical custody of the above-named
Defendant, forthwith, pursuant to Section 704-413(4), Hawai'i Revised Statutes, as
amended, and have the Defendant brought before this Court in Lihue, Hawai'i, located
at the Kauai Judiciary Complex, 3970 Kaana Street, Lihue, Hawaii.

YOU ARE FURTHER COMMANDED, upon securing the physical custody of the
Defendant, to notify this Court or its Clerk by telephone or in person as to the custody
status of Defendant so that the Court may schedule an immediate hearing concerning
the revocation of Defendant's Conditional Release and/or Order for Temporary
Hospitalization.

YOU ARE FURTHER COMMANDED to segregate Defendant from the general
prison or jail population and, to the extent practical, provide Defendant with appropriate
mental health evaluations while Defendant is being held in custody by the Department
of Corrections and Rehabilitation, any county police department, or any law
enforcement agency during the period of time prior to Defendant's transfer to the
custody of the Director of Health of the State of Hawai'i, as required by Clark, et al. V.
State of Hawai'i, et al., Civil No. CV 99-0085 DAE/BMK (U.S. DCt – District of Hawai'i)
filed Nov. 16, 2000.

YOU ARE FURTHER COMMANDED not to hold Defendant in a facility controlled
by the Hawai'i Department of Public Safety ("DPS Facility") for a period of time longer
than the time needed to identify the person, determine his/her legal status, and

determine whether the person will be charged with a crime, and in no case for a period that exceeds forty-eight (48) hours, except that transfer of custody from facilities on islands other than Oahu may exceed the forty-eight (48) hour period, so long as transport is made by the first available flight.” Clark, et al. V. State of Hawai‘i, et al.

YOU ARE FURTHER COMMANDED, upon taking physical custody of the Defendant, to immediately contact the Department of Health’s Crisis Line of Hawaii (telephone 1-800-753-6879) and provide transport of Defendant to the facility designated by the Department of Health for the Defendant’s custody and/or care following the Defendant’s physical detention.

Dated: Lihue, Hawai‘i, _____.

Judge