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Supreme Court
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IN THE SUPREME COURT OF THE STATE OF HAWAI'I

IN THE MATTER OF INDIVIDUALS IN CUSTODY
OF THE STATE OF HAWAI'I

ORIGINAL PROCEEDING

CONCURRENCE AND DISSENT TO ORDER RE:
PETTY MISDEMEANOR, MISDEMEANOR, AND FELONY DEFENDANTS
(By: McKenna, J.)

I join in and concur with the above-entitled order except with respect to the addition of "violation of interstate or intrastate travel quarantine requirements, as ordered pursuant to HRS ch. 127A" in paragraph 2(g) as an "excluded offense." This means that those who are charged with or convicted of violating interstate or intrastate quarantine requirements will not be subject to the expeditious release requirement of paragraphs 3 and the prohibitions of paragraph 4 regarding setting of bail for misdemeanor offenses. In other words,

quarantine violators will now be subject to incarceration in our community correctional centers.

Quarantine requirements exist so that travelers do not spread COVID-19 to others. I therefore appreciate the need to ensure compliance with quarantine requirements, and agree that additional conditions of pre-trial release or probation, such as requiring quarantine in other locations, might be warranted, on a case by case basis.

But the order as written allows incarceration of quarantine violators in our correctional centers. I believe that allowing this option contravenes the very purpose of our orders--to reduce and eventually eliminate COVID-19 in our correctional centers. I would encourage our trial judges not to send quarantine violators, who may be infected with COVID-19, to our community correctional centers.

DATED: Honolulu, Hawai'i, August 27, 2020.

/s/ Sabrina S. McKenna

