

**Electronically Filed
Intermediate Court of Appeals
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NO. CAAP-19-0000628

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
SEAN D.K. PERRY, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 1CPC-18-0001779)

ORDER DISMISSING APPEAL

(By: Ginoza, Chief Judge, Leonard and Hiraoka, JJ.)

Upon consideration of the Response to Court's March 10, 2020 Order and Motion to Dismiss Appeal as Moot (**Motion**), filed November 25, 2020, by Defendant-Appellant Sean D.K. Perry's (**Perry**) counsel, Cynthia A. Kagiwada, the papers in support, the record, and there being no opposition, it appears that Perry has died during the pendency of his appeal and a motion for substitution of proper party defendant-appellant pursuant to Hawai'i Rules of Appellate Procedure Rule 43(a) was not filed.

Therefore, IT IS HEREBY ORDERED that, pursuant to State v. Makaila, 79 Hawai'i 40, 45, 897 P.2d 967, 972 (1995), Perry's appeal is dismissed as moot, the underlying judgment of conviction is vacated, and all related criminal proceedings are dismissed.

DATED: Honolulu, Hawai'i, February 5, 2021.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Katherine G. Leonard
Associate Judge

/s/ Keith K. Hiraoka
Associate Judge