

Electronically Filed
Intermediate Court of Appeals
CAAP-21-0000044
12-MAY-2021
10:07 AM
Dkt. 21 OGMD

NO. CAAP-21-0000044

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
ROBERTA WILBORN, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 1CPC-19-0000658)

ORDER GRANTING MOTION TO DISMISS
FOR LACK OF APPELLATE JURISDICTION

(By: Leonard, Presiding Judge, Hiraoka and Nakasone, JJ.)

Upon consideration of the Motion to Dismiss for Lack of Appellate Jurisdiction (**Motion**), filed by Plaintiff-Appellee State of Hawaii on April 26, 2021, the papers in support, and the record, it appears the court lacks jurisdiction over Defendant-Appellant Roberta Wilborn's (**Wilborn**) appeal from Case No. 1CPC-19-0000658 because the Circuit Court of the First Circuit Court (**Circuit Court**) has not entered a final, appealable order or judgment and the appeal is premature.

Wilborn appears to appeal from the Circuit Court's September 17, 2020 Order Denying Without Hearing "Motion to Quash Mental Examination to Determine [Wilborn's] Fitness to Proceed and Penal Responsibility" Filed September 16, 2020, and September 21, 2020 bench warrant. "In a circuit court criminal case, a defendant may appeal from the judgment of the circuit court, see [Hawaii Revised Statutes (**HRS**)] § 641-11 (1993), from a certified interlocutory order, see HRS § 641-17 (1993), or from an interlocutory order denying a motion to dismiss based on double jeopardy." State v. Kealaiki, 95 Hawaii 309, 312, 22

P.3d 588, 591 (2001) (citation omitted). Here, the Circuit Court has not certified its rulings for interlocutory appeal under HRS § 641-17 (2016) or denied a motion to dismiss based on double jeopardy.

Therefore, IT IS HEREBY ORDERED that the Motion is granted and the appeal in Case No. CAAP-21-0000044 is dismissed for lack of appellate jurisdiction.

IT IS HEREBY FURTHER ORDERED that all pending motions are dismissed as moot.

DATED: Honolulu, Hawai'i, May 12, 2021.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Karen T. Nakasone
Associate Judge