

NO. CAAP-21-0000044

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

STATE OF HAWAI'I, 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 Hawai'i 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 Hawai'i 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