

**Electronically Filed
Intermediate Court of Appeals
CAAP-20-0000775
17-NOV-2021
08:30 AM
Dkt. 59 ODSD**

NO. CAAP-20-0000775

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
DESTINY M. KELLY, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 1CPC-17-0000093)

ORDER DISMISSING APPEAL

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

Upon consideration of the August 5, 2021 "Motion to Vacate Second Amended Order of Resentencing Revocation of Probation, Notice of Entry, Filed on November 30, 2020 and to Dismiss All Related Criminal Proceedings" by Defendant-Appellant Destiny M. Kelly (Kelly), the papers in support, and the record, and there being no opposition, it appears Kelly has died during the pendency of her appeal and a motion for substitution of proper party defendant-appellant pursuant to Hawaii Rules of Appellate Procedure Rule 43(a) was not filed.

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

DATED: Honolulu, Hawaii, November 17, 2021.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Karen T. Nakasone
Associate Judge