

**Electronically Filed
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NO. CAAP-22-0000359

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
DYLAN RIVER JAMES, Defendant-Appellant.

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(CASE NO. 5CPC-20-0000051)

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Hiraoka, Presiding Judge, Wadsworth and Nakasone, JJ.)

Upon review of the record, it appears that we lack jurisdiction over the appeal by Defendant-Appellant Dylan River James (**James**) from the Circuit Court of the Fifth Circuit's (**circuit court**) March 28, 2022 "Order Denying [James]'s Motion in Limine #1 Paragraph 'F' Filed on December 20, 2021" (**Order Denying MIL**) because the circuit court improperly certified the Order Denying MIL for interlocutory appeal.

Hawaii Revised Statutes (**HRS**) § 641-17 (2016) allows a defendant to assert an interlocutory appeal in a criminal matter from the circuit court to this court, "[u]pon application made within the time provided by the rules of court." Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 4(b)(1) provides in relevant part that a "motion for leave to file an interlocutory appeal from an order of the circuit court must be filed within 30 days of the court's entry of the order." (Emphasis added.) Here, the circuit court entered its Order Denying MIL on March 28, 2022, making a motion for leave to file an interlocutory appeal due by

April 27, 2022.¹ However, James did not file his Motion for Leave to File Interlocutory Appeal until April 29, 2022, which was untimely under HRS § 641-17 and HRAP Rule 4(b)(1).

Therefore, IT IS HEREBY ORDERED that the appeal is dismissed for lack of appellate jurisdiction.

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

DATED: Honolulu, Hawai'i, June 23, 2022.

/s/ Keith K. Hiraoka
Presiding Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Karen T. Nakasone
Associate Judge

¹ April 27, 2022 was not a holiday, Saturday, or Sunday. See HRAP Rule 26(a).