

**Electronically Filed
Intermediate Court of Appeals
CAAP-22-0000537
01-FEB-2023
07:58 AM
Dkt. 12 ODSLJ**

NO. CAAP-22-0000537

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
MATTHEW DAVIDSON, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(CASE NO. 5CPC-21-0000019)

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Ginoza, Chief Judge, Wadsworth and Chan, JJ.)

Upon review of the record, it appears that we lack jurisdiction over Defendant-Appellant Matthew Davidson's (**Davidson**) appeal from the Circuit Court of the Fifth Circuit's August 9, 2022 Judgment of Conviction and Probation Sentence because Davidson does not appeal from a final order or judgment, and the circuit court has not otherwise entered a final, appealable order or judgment in the underlying proceeding. Hawaii Revised Statutes § 641-11 (2016); State v. Nicol, 140 Hawai'i 482, 492, 403 P.3d 259, 269 (2017).

Therefore, IT IS HEREBY ORDERED that the appeal is dismissed for lack of appellate jurisdiction.¹

¹ On January 16, 2023, Davidson filed a Motion for Leave to Withdraw Appeal or for Dismissal of Appeal Without Prejudice, but the motion is not supported by an affidavit or declaration by Davidson that reflects a knowing, intelligent, and voluntary understanding of the consequences of dismissal of the appeal, as required by Hawai'i Rules of Appellate Procedure Rule 42(c). Moreover, because it appears that attorney Kai Lawrence has not been substituted in to represent Davidson in the Circuit Court and the record indicates Davidson is represented by Shaylene Iseri, Esq. in the underlying case, 5CPC-21-0000019, the circuit court may wish to clarify who represents Davidson going forward.

IT IS FURTHER ORDERED that all pending motions are dismissed.

IT IS FURTHER ORDERED that the appellate clerk shall serve a copy of this order on the clerk of the Circuit Court of the Fifth Circuit.

DATED: Honolulu, Hawai'i, February 1, 2023.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Derrick H.M. Chan
Associate Judge