

NO. CAAP-23-0000282

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
JOHN CROKE, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 1CPC-21-0000235)

ORDER DISMISSING APPEAL

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

Upon consideration of Defendant-Appellant John Croke's (**Croke**) July 20, 2023 Motion to Consolidate CAAP-23-0000105 and CAAP-23-0000282 (**Motion to Consolidate**), filed in case numbers CAAP-23-0000105 and CAAP-23-0000282, the papers in support, and the record in case numbers CAAP-23-0000105 and CAAP-23-0000282, it appears that:

- (1) Croke seeks to consolidate the appeals in case numbers CAAP-23-0000105 and CAAP-23-0000282;
- (2) In case number CAAP-23-0000105, Croke appeals from the Circuit Court of the First Circuit's (**Circuit Court**) February 27, 2023 minute order (**Minute Order**) dismissing without prejudice the October 26, 2022 Amended Felony Indictment in 1CPC-21-0000235 (**Amended Indictment**);
- (3) On March 13, 2023, the Circuit Court reduced the Minute Order to a written order dismissing without prejudice the Amended Indictment (**Dismissal Order**). In case number CAAP-23-0000282, Croke appeals from the Dismissal Order;
- (4) We find that the Dismissal Order is a final, appealable order under Hawaii Revised Statutes § 641-11 (2016)

and State v. Nicol, 140 Hawai'i 482, 403 P.3d 259 (2017), and that both appeals are from the Dismissal Order. The notice of appeal in CAAP-23-0000105, though premature, is deemed timely-filed under Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 4(b)(4), and the notice of appeal in CAAP-23-0000282 was timely-filed under HRAP Rule 4(b)(1); and

(5) Therefore, the appeal in case number CAAP-23-0000282 is duplicative and unnecessary, as the court will already review the Dismissal Order in case number CAAP-23-0000105. Accordingly, we will *sua sponte* dismiss the appeal in case number CAAP-23-0000282, making the requests for consolidation moot. See Ogeone v. Au, No. CAAP-18-0000190, 2019 WL 972542, at *1 (App. Feb. 27, 2019) (Order).

Therefore, IT IS HEREBY ORDERED that the appeal in case number CAAP-23-0000282 is dismissed as unnecessary, and all pending motions in CAAP-23-0000282 are dismissed as moot.

IT IS FURTHER ORDERED that the Motion to Consolidate filed in CAAP-23-0000105 is denied as moot.

IT IS FURTHER ORDERED that the appellate clerk shall file this order in case numbers CAAP-23-0000105 and CAAP-23-0000282.

DATED: Honolulu, Hawai'i, August 9, 2023.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Karen T. Nakasone
Associate Judge