

**Electronically Filed
Intermediate Court of Appeals
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NO. CAAP-18-0000899

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

KIRK LANKFORD, Plaintiff-Appellant,

v.

CITY AND COUNTY OF HONOLULU; DEPARTMENT OF THE
PROSECUTING ATTORNEY, for the City and County of Honolulu;
PETER CARLISLE, former Prosecuting Attorney for the City
and County of Honolulu, LISA DE MELLO, Deputy Prosecuting
Attorney for the City and County of Honolulu;
ARMINA A. CHING, First Deputy Prosecuting Attorney for
the City and County of Honolulu; KEITH M. KANESHIRO,
Prosecuting Attorney for the City and County of Honolulu,
Defendants-Appellees, and DOES 1-100, inclusive;
sued in their individual and official capacities,
Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CASE NO. 1CC15000330)

SUMMARY DISPOSITION ORDER

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

Kirk **Lankford**, representing himself, appeals from the Judgment entered by the Circuit Court of the First Circuit on November 23, 2018.¹ He challenges the circuit court's order granting the defendants' motion to dismiss his complaint, entered on June 3, 2016. We affirm.

In 2008 Lankford was convicted of Murder in the Second Degree in violation of Hawaii Revised Statutes § 707-701.5. State v. Lankford, No. 29287, 2011 WL 1836716, at *1 (Haw. App.

¹ The Honorable Virginia Lea Crandall presided.

May 13, 2011) (mem.), cert. rejected, SCWC-29287, 2011 WL 4552995 (Haw. Oct. 4, 2011). He was sentenced to life in prison with the possibility of parole. Id.

Lankford filed a complaint with the circuit court on February 25, 2015. He claimed that the City and County of Honolulu Department of the Prosecuting Attorney and four of its attorneys (collectively, the **City**) violated 42 U.S.C. § 1983. He also asserted state law tort claims.

The City removed the case to federal court. The federal court dismissed the federal claims, declined to exercise supplemental jurisdiction over the state law claims, and remanded the case to the circuit court.

Back in state court, the City moved to dismiss the remaining claims. The circuit court granted the motion and entered the Judgment. This appeal followed.

Lankford's tort claims against the City are based on conduct connected with his sentencing by the circuit court and his minimum sentence proceeding before the Hawai'i Paroling Authority. Neither Lankford's conviction nor his sentence have been vacated. A criminal defendant who has failed to overturn their conviction cannot maintain a civil tort lawsuit based on claims that necessarily imply the invalidity of the conviction. Penafloor v. Mossman, 141 Hawai'i 358, 364, 409 P.3d 762, 768 (App. 2017); Heck v. Humphrey, 512 U.S. 477, 484-86 (1994). The circuit court did not err by dismissing Lankford's complaint.

The "Judgment" entered by the circuit court on November 23, 2018, is affirmed.

DATED: Honolulu, Hawai'i, February 6, 2024.

On the briefs:

Kirk Lankford,
Self-represented
Plaintiff-Appellant.

/s/ Katherine G. Leonard
Acting Chief Judge

/s/ Keith K. Hiraoka
Associate Judge

Robert M. Kohn,
Deputy Corporation Counsel,
City and County of Honolulu,
for Defendants-Appellees.

/s/ Karen T. Nakasone
Associate Judge