

**Electronically Filed
Intermediate Court of Appeals
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NO. CAAP-25-0000053

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

ELDINE PAULINE, Petitioner-Appellant, v.
STATE OF HAWAI'I, Respondent-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CASE NO. 1CPN-24-0000029)

ORDER DISMISSING APPEAL FOR LACK OF JURISDICTION

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

Upon review of the record, it appears that Petitioner-Appellant Elden Pauline appeals from Respondent-Appellee State of Hawaii's December 19, 2024 Answer to Petition to Vacate, Set Aside or Correct Judgment or to Release Petitioner for Custody (Rule 40, HRPP), filed in 1CPN-24-0000029.

Pursuant to Hawaii Revised Statutes § 641-11 (2016) and Hawai'i Rules of Penal Procedure Rule (**HRPP**) 40(h), "appeals from proceedings for post-conviction relief may be made from a judgment entered in the proceeding and must be taken in accordance with [HRAP] Rule 4(b)." Grattafiori v. State, 79 Hawai'i 10, 13, 897 P.2d 937, 940 (1995) (cleaned up). Although HRPP Rule 40(h) refers to the appealable document as a "judgment," the supreme court has indicated that a "written order" denying an HRPP Rule 40 petition for post-conviction

relief is appealable pursuant to HRPP Rule 40(h). Id. at 14, 897 P.2d at 941. The court must dismiss an appeal on its motion if it lacks jurisdiction. Id. at 13, 897 P.2d at 940.

The Circuit Court of the First Circuit has not entered an order disposing of Pauline's Petition for Post Conviction Relief. Accordingly, the appeal is premature, and the court lacks appellate jurisdiction.

Therefore, IT IS HEREBY ORDERED that the appeal is dismissed.

DATED: Honolulu, Hawai'i, June 23, 2025.

/s/ Katherine G. Leonard
Acting Chief Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Clyde J. Wadsworth
Associate Judge