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IN THE SUPREME COURT OF THE STATE OF HAWAIʻI

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STATE OF HAWAIʻI,
Respondent/Plaintiff-Appellee,

vs.

ALIKA K. AMASIU,
Petitioner/Defendant-Appellant.

SCWC-21-0000556

APPEAL FROM THE INTERMEDIATE COURT OF APPEALS
(CAAP-21-0000556; CASE NO. 2FFC-17-0000458)

AUGUST 26, 2026

DEVENS, C.J., McKENNA, EDDINS, AND GINOZA, JJ., AND
CIRCUIT JUDGE NAKAMOTO, ASSIGNED BY REASON OF VACANCY

OPINION OF THE COURT BY GINOZA, J.

I. INTRODUCTION

This appeal addresses whether the statute of limitations was tolled where Respondent/Plaintiff the State of Hawaiʻi (**State**) charged Petitioner/Defendant Alika K. Amasiu (**Amasiu**) with Assault in the First Degree in two successive information charging documents.

The case arises out of an alleged assault on November 27, 2014, by Amasiu of his then infant son. Five days before the three-year limitations period expired, the State filed the first felony information (**First Information**) in the Circuit Court of the Second Circuit (**Circuit Court**), charging Amasiu with Assault in the First Degree, in violation of Hawaiʻi Revised Statutes (**HRS**) § 707-710 (2014).[1] About a month later, the State filed a second felony information (**Second Information**) for the same charge in the Family Court of the Second Circuit (**Family Court**). After filing the Second Information, the State moved to dismiss the first one, which the Circuit Court granted.

Trial was scheduled in Family Court and continued multiple times over the next three years. Then, Amasiu moved to dismiss the Second Information based on statute of limitations grounds. He claimed the statute of limitations had not been tolled by the First Information because the Circuit Court did not have jurisdiction over the case and the First Information was not served to commence the prosecution. The Family Court denied the motion to dismiss but granted Amasiu's request to file an interlocutory appeal.[2] The Intermediate Court of Appeals (**ICA**) affirmed the Family Court. We granted Amasiu's request for certiorari.

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[1] At the time of the alleged offense in this case, HRS § 707-710(1) provided: "A person commits the offense of assault in the first degree if the person intentionally or knowingly causes serious bodily injury to another person." The offense is a class B felony, which has a three-year statute of limitations. HRS § 707-710(2); HRS § 701-108(2)(d) (2014).

[2] The Honorable Richard T. Bissen, Jr. presided.

We first hold that the Circuit Court had jurisdiction when the First Information was filed and was authorized to make the probable cause determination. HRS § 603-21.5 (2016);[3] HRS § 806-84(g) (2014) (an information "shall be filed in the circuit court"); HRS § 806-85(a) and (d) (2014) ("[T]he court having jurisdiction shall review the information and its exhibit to determine whether there is probable cause" and "[a]s used in this section, 'court having jurisdiction' . . . mean[s] the circuit court").[4] Under HRS § 571-14(a)(1) (2018),[5] family

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[3] HRS § 603-21.5(a)(1) provides:

> (a) The several circuit courts shall have jurisdiction, except as otherwise expressly provided by statute, of:
>
> (1) Criminal offenses cognizable under the laws of the State, committed within their respective circuits or transferred to them for trial by change of venue from some other circuit court[.]

[4] HRS § 806-85(a) and (d) provide:

> (a) When an information is filed, <u>the court having jurisdiction</u> shall review the information and its exhibit to determine whether there is probable cause to believe that the offense charged was committed and that the defendant committed the offense charged.
> . . . .
> (d) As used in this section, "<u>court having jurisdiction" and "court" mean the circuit court</u>; provided that the chief justice may by order authorize district court judges to make probable cause determinations, set bail, and direct the issuance of arrest warrants, as provided by this section.

(Emphases added.)

[5] When the offense alleged here occurred, HRS § 571-14(a)(1), governing family court jurisdiction over adults, provided:

> (a) Except as provided in sections 603-21.5 and 604-8, the court shall have exclusive original jurisdiction:

courts have exclusive jurisdiction "[t]o try any offense committed against a child by the child's parent[,]" (emphasis added), but this did not invalidate the filing of the First Information in the Circuit Court or the finding of probable cause in that court. Although the ICA held the Circuit Court had jurisdiction, its reasoning was different.

Second, we hold that District Court Judge Blaine J. Kobayashi (**District Judge Kobayashi**) was authorized to make the probable cause determination on the First Information. HRS § 806-85 not only authorizes the Circuit Court to make probable cause determinations on an information, but HRS § 806-85(d) provides that "the chief justice may by order authorize district court judges to make probable cause determinations[.]" Former Chief Justice Ronald T.Y. Moon issued such an order in 2005, pursuant to this statutory authority.

Third, we hold that prosecution by information "commences" when the applicable court makes a finding of probable cause. Under HRS § 806-9 (2014), provisions for

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> (1) To try any offense committed against a child by the child's parent or guardian or by any other person having the child's legal or physical custody, and any violation of section 707-726, 707-727, 709-902, 709-903, 709-903.5, 709-904, 709-905, 709-906, or 302A-1135, whether or not included in other provisions of this paragraph or paragraph (2)[.]

(Emphasis added.)

prosecution by indictment apply to prosecutions by information. In turn, HRS § 701-108(5) (2014)[6] specifically addresses the statute of limitations and provides that prosecution by indictment commences when an indictment is "found." In this regard, the ICA incorrectly stated the *filing* of the information commenced the prosecution in this case. However, District Judge Kobayashi made a probable cause finding on the same day the First Information was filed. The prosecution commenced timely and the statute of limitations was tolled while the case was in the Circuit Court. See HRS § 701-108(6)(b) (2014).[7]

For the reasons in this opinion, which differ from the ICA's summary disposition order, we affirm the ICA's Judgment on Appeal, which affirmed the Family Court's order denying Amasiu's motion to dismiss.

II. BACKGROUND

A. Circuit and Family Court Proceedings

On November 22, 2017, five days before the three-year statute of limitations for first-degree assault would have expired, the State filed the First Information in the Circuit Court asserting that Amasiu intentionally or knowingly caused

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[6] HRS § 701-108(5) provides: "A prosecution is commenced either when an indictment is found or a complaint filed, or when an arrest warrant or other process is issued, provided that such warrant or process is executed without unreasonable delay." (Emphases added.)

[7] HRS § 701-108(6)(b) provides: "The period of limitation does not run: . . . (b) During any time when a prosecution against the accused for the same conduct is pending in this State[.]"

serious bodily injury to his son, thereby committing the offense of Assault in the First Degree in violation of HRS § 707-710(1). On the same day, District Judge Kobayashi of the District Court of the Second Circuit, determined there was sufficient evidence to support a finding of probable cause for the First Information. District Judge Kobayashi set bail at $50,000 and issued an arrest warrant. That arrest warrant was not served on Amasiu.

About a month later, on December 21, 2017, the State filed the Second Information in the Family Court on the same charge. On the same day, District Family Court Judge Adrianne N. Heely (**District Judge Heely**), determined there was sufficient evidence to support a finding of probable cause. District Judge Heely set bail at $50,000 and issued an arrest warrant. This arrest warrant was served on Amasiu.

The day after the probable cause finding on the Second Information, the State moved ex parte to recall the Circuit Court's arrest warrant and to dismiss the First Information without prejudice, which the Circuit Court granted. The first warrant was recalled before it was served on Amasiu.

A jury trial was scheduled in Family Court but then continued multiple times. Then, on May 16, 2021, almost three-and-a-half years after he was charged, Amasiu moved to dismiss this case in the Family Court. He argued the First Information did not toll the statute of limitations, and thus the Second Information was filed outside the limitations period and must be dismissed.

During a hearing, the Family Court orally denied Amasiu's motion and later issued an Order Denying Motion to Dismiss, making the following Findings of Fact (**FOF**):

> 1. At the hearing on the Defendant's Motion to Dismiss for Violation of Statute of Limitations, the Defendant presented no witnesses, presented no evidence, nor requested that the Court take judicial notice of any facts. However, it was undisputed in the pleadings submitted, and the arguments made at the hearing that the Defendant was charged by way of felony information with a single count of Assault in the First Degree on November 22, 2017;
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> 2. The November 22, 2017, felony information alleged that the Defendant intentionally or knowingly caused serious bodily injury to his then four-month[-]old son on November 27, 2014;
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> 3. The Honorable Blaine Kobayashi, Judge of the District Court of the Second Circuit found probable cause to support the November 22, 2017, felony information and issued a warrant for the Defendant's arrest. The November 22, 2017, Felony Information alleged subject-matter jurisdiction in the Circuit Court;
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> 4. On December 21, 2017, the State filed a subsequent felony information for the same charge, arising out of the same conduct, alleged to occur on the same date and against the same victim, but alleging subject-matter jurisdiction in the Family Court of the Second Circuit;
>
> 5. The Honorable Adrianne Heely found probable cause to support the December 21, 2017, felony information and ordered the issuance of a warrant for the Defendant's arrest;
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> 6. On December 22, 2017, the State filed an ex-parte motion to dismiss the November 22, 2017, felony information and recalled the bench warrant before it was served on the Defendant;
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> 7. On December 26, 2017, the Honorable Joseph E. Cardoza, Judge of the Circuit Court of the Second Circuit, approved the State's motion to dismiss the November [22],

> 2017, felony information without prejudice, and ordered the recall of original warrant issued;
>
> 8. The Court has jurisdiction to preside over this matter[.]

The Family Court made the following Conclusions of Law (**COL**):

> 1. The statute of limitations for the charge of Assault in the First Degree, a class B felony, is three (3) years. HRS § 701-108 (2)(d);
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> 2. Section 701-108 of the Hawaiʻi Revised Statutes provides that a prosecution is commenced "either when an indictment is found or a complaint filed, or when an arrest warrant or other process is issued, provided that such warrant or process is executed without unreasonable delay." HRS § 701-108(5);
>
> 3. Pursuant to section 701-108(6)(b) of the Hawaiʻi Revised Statutes, the period of limitation does not run "[d]uring any time when a prosecution against the accused for the same conduct is pending in this State." HRS § 701-108 (6)(b);
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> 4. The family courts are divisions of the circuit courts of the State of Hawaiʻi and are not deemed to be other courts as that term is used in the Hawaiʻi State Constitution. HRS § 571-3;
>
> 5. The several judges of the second, third an[d] fifth circuits are judges of the family courts when exercising jurisdiction under chapter 571 of the HRS. HRS § 571-4;
>
> 6. A judge appointed to the circuit court of the second circuit serves as both circuit and family court judge. As such, judges of the second circuit appropriately have authority over both circuit and family court matters. [Adams v. State], 103 Hawaiʻi 214, 222, 81 P.3d 394, 402 (2003);
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> 7. A prosecution commences and is considered "pending" when a charging document is filed, regardless of whether the charging document is deficient. State v. Armitage, 132 Hawaiʻi 36, 51-52, 319 P.3d 1044, 1059-1060 (2014).
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> 8. The Court finds that the prosecution was commenced in this case when the November 22, 2017, Felony Information was filed, regardless of whether it was deficient;

> 9. The Court finds that the Circuit Court properly exercised jurisdiction over the case and that the statute of limitations was tolled from the filing of the felony information on November 22, 2017, to the filing of the December 21, 2017, felony information;
>
> 10. The Court further finds that the Felony Information in this case was not executed without unreasonable delay[.]

The Family Court denied Amasiu's motion to dismiss. It then granted his request for an interlocutory appeal.

B. ICA Proceedings

In his interlocutory appeal to the ICA, Amasiu asserted that the Family Court erred by ruling that the First Information tolled the statute of limitations even though it was filed in a court that lacked jurisdiction, it was dismissed before it was served, and a district court judge made a probable cause determination without authority to do so.

The ICA affirmed the Family Court's Order Denying Motion to Dismiss. State v. Amasiu, No. CAAP-21-0000556, 2024 WL 4799710 (Haw. App. Nov. 15, 2024) (SDO).

The ICA first addressed Amasiu's argument that because he was not served with the First Information, it did not commence prosecution and did not toll the statute of limitations. Id. at *2. Amasiu asserted that "information" should be considered "other process" under HRS § 701-108(5), which states: "A prosecution is commenced either when an indictment is found or a complaint filed, or when an arrest warrant or other process is issued, provided that such warrant or process is executed without unreasonable delay." Id.

The ICA determined that under HRS § 806-9, which provides that all laws applying to prosecutions upon indictments apply to information charging, a charge by information is not "other process." Id. The ICA stated a prosecution by information commences when the information is *filed* with the circuit (or family) court. Id.

The ICA explained:

> In prosecuting a felony by information, the written information must be "signed by a legal prosecuting officer and filed in the court having jurisdiction thereof . . . ." HRS § 806-82 (2014).[8] Furthermore, "[t]he information shall be filed in the circuit court[.]" HRS § 806-84(g) (2014); see Hawaiʻi Rules of Penal Procedure Rule 7(h)(1) ("An indictment or information shall be filed in the circuit court."). And the "family courts shall be divisions of the circuit courts of the State." HRS § 571-3 (2018).
>
> Therefore, when reading HRS § 701-108(5) (prosecution commences when indictment found) in *pari materia* with HRS §§ 806-9 (laws regarding indictment apply to information), 806-82 (informations are filed in court), 806-84(g)[9] (informations shall be filed in circuit court), and 571-3 (family courts are divisions of circuit courts), we construe a prosecution by information as commencing when the information is **filed** with the circuit (or family) court.

Id. (some alterations in original) (emphasis added).

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[8] HRS § 806-82 provides: "Criminal charges may be instituted by written information signed by a legal prosecuting officer and filed in the court having jurisdiction thereof when the charge is a felony for which charging by written information is permitted by section 806-83."

[9] HRS § 806-84(g) provides: "The information shall be filed in the circuit court, and may be filed under seal with leave of court on good cause shown. All exhibits in support of the information shall be filed under seal in the circuit court."

Amasiu next asserted that the First Information did not toll the statute of limitations because under HRS § 571-14(a)(1) and HRS § 806-82 (2014), the Family Court had exclusive jurisdiction over his case, and thus the Circuit Court did not have jurisdiction. Id. at *3. It appears the ICA determined the Circuit Court had jurisdiction over the First Information under HRS § 603-21.5, and that under HRS § 571-3 (2018), family courts are divisions of the circuit courts. Id. The ICA stated, "[b]ecause the family courts are divisions of the circuit court, any potential jurisdictional defect in filing the First Felony Information in circuit court for purposes of tolling the statute of limitations was immaterial," and cited State v. Pedro, 149 Hawai'i 256, 263 n.2, 488 P.3d 1235, 1242 n.2 (2021). Amasiu, 2024 WL 4799710 at *3. The ICA did not directly address the exclusive jurisdiction of the Family Court under HRS § 571-14(a)(1).

Finally, Amasiu argued that District Judge Kobayashi was not authorized to make the probable cause determination on the First Information, and thus the First Information did not toll the statute of limitations. Id. The ICA disagreed, noting that under HRS § 806-85(d), when the charge is by information, the chief justice may authorize district court judges to make probable cause determinations. Id. The ICA explained that in

2005, then Chief Justice Moon issued an order authorizing the district judges in the First, Second, Third, and Fifth Circuits to make probable cause determinations. Id. at *3 (citing In re Info. Charging, (Haw. Feb. 15, 2005) (order), https://www.courts.state.hi.us/docs/sct_various_orders/order21.pdf [https://perma.cc/EHT9-PSBN]). The ICA concluded District Judge Kobayashi was properly authorized to make the probable cause determination in the Circuit Court, and the statute of limitations tolled. Id. at *4.

The ICA affirmed the Family Court's Order Denying Motion to Dismiss. Id.

C. Application for Certiorari

Amasiu applied for certiorari, presenting one question: "Does an Information charging an offense under the exclusive jurisdiction of the Family Court that is reviewed for probable cause and signed by a District Court judge, filed in the Circuit Court, and dismissed before being served toll the statute of limitations[?]"

We accepted certiorari.

III. STANDARDS OF REVIEW

A. Statutory Interpretation

> Statutory interpretation is a question of law reviewable de novo. . . . In reviewing questions of statutory interpretation, we are guided by the following principles:

> First, the fundamental starting point for statutory-interpretation is the language of the statute itself. Second, where the statutory language is plain and unambiguous, our sole duty is to give effect to its plain and obvious meaning. Third, implicit in the task of statutory construction is our foremost obligation to ascertain and give effect to the intention of the legislature, which is to be obtained primarily from the language contained in the statute itself. Fourth, when there is doubt, doubleness of meaning, or indistinctiveness or uncertainty of an expression used in a statute, an ambiguity exists.

State v. Castillon, 144 Hawaiʻi 406, 411, 443 P.3d 98, 103 (2019) (citation omitted).

> When there is ambiguity in a statute, the meaning of the ambiguous words may be sought by examining the context, with which the ambiguous words, phrases, and sentences may be compared, in order to ascertain their true meaning. Moreover, the courts may resort to extrinsic aids in determining legislative intent, such as legislative history, or the reason and spirit of the law.

State v. Abihai, 146 Hawaiʻi 398, 406, 463 P.3d 1055, 1063 (2020) (citation omitted).

B. Jurisdiction

"The existence of jurisdiction is a question of law that [this court] review[s] *de novo* under the right/wrong standard." State v. Adam, 97 Hawaiʻi 475, 481, 40 P.3d 877, 883 (2002) (citation omitted). "[Q]uestions regarding subject matter jurisdiction may be raised at any stage of a cause of action." Schwartz v. State, 136 Hawaiʻi 258, 263, 361 P.3d 1161, 1166 (2015) (citation, internal quotation marks, and brackets omitted).

C. Motion to Dismiss

This court has stated:

> A trial court's ruling on a motion to dismiss an indictment is reviewed for an abuse of discretion. The trial court abuses its discretion when it clearly exceeds the bounds of reason or disregards rules or principles of law or practice to the substantial detriment of a party litigant. The burden of establishing abuse of discretion is on appellant, and a strong showing is required to establish it.

State v. Pitolo, 144 Hawaiʻi 100, 105, 436 P.3d 1183, 1188 (2019) (citation omitted).

IV. DISCUSSION

Similar to his arguments in the ICA, Amasiu contends the three-year statute of limitations was not tolled by the First Information because: (1) the State filed it in the Circuit Court when the Family Court had exclusive jurisdiction; (2) District Judge Kobayashi did not have authority to make a probable cause determination because of the Family Court's exclusive jurisdiction; and (3) the First Information had to be served for it to toll the statute of limitations. Amasiu asserts that because the First Information did not toll the statute of limitations, the State filed its Second Information outside of the three-year statute of limitations and it must be dismissed. He argues the ICA gravely erred in affirming the Family Court's denial of his motion to dismiss.

We conclude Amasiu's motion to dismiss was properly denied by the Family Court and we affirm the ICA's judgment on appeal, but for reasons different from the ICA.

A. The Circuit Court's Jurisdiction Over the First Information

HRS Chapter 603 governs circuit courts. HRS § 603-21.5(a)(1) states in relevant part:

> (a) The several circuit courts shall have jurisdiction, <u>except as otherwise expressly provided by statute</u>, of:
>
> (1) Criminal offenses cognizable under the laws of the State, committed within their respective circuits or transferred to them for trial by change of venue from some other circuit court[.]

(Emphasis added.)

Thus, "except as otherwise expressly provided by statute," the Circuit Court had jurisdiction over the First Information under HRS § 603-21.5(a)(1) because Amasiu was charged with a criminal offense "cognizable under the laws of the State" and allegedly committed within the Second Circuit.

Next, however, HRS Chapter 571 governs family court jurisdiction over adults. HRS § 571-14(a)(1) states, in relevant part:

> (a) <u>Except as provided in sections 603-21.5</u> and 604-8, the court shall have <u>exclusive</u> original jurisdiction:
>
> (1) To <u>try</u> any offense committed against a child by the child's parent or guardian or by any other person having the child's legal or physical custody[.]

(Emphases added.) This provision applies to cases like this, involving an offense allegedly committed against a child by the child's parent. But it also appears at first blush that HRS § 603-21.5(a) and HRS § 571-14(a) have exceptions applicable to each other and, if so, it is unclear how to apply these statutes to this case.

Of note, however, HRS § 603-21.5(b) specifies certain matters over which the circuit courts have concurrent jurisdiction with family courts.[10] In order to give effect to the exceptions in both HRS § 603-21.5(a)(1) and HRS § 571-14(a)(1) so that neither is rendered superfluous, we construe

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[10] When the offense alleged here occurred, HRS § 603-21.5(b) provided:

> (b) The several circuit courts shall have concurrent jurisdiction with the family court over:
>
> (1) Any felony under section 571-14, violation of an order issued pursuant to chapter 586, or a violation of section 709-906 when multiple offenses are charged through complaint or indictment and at least one other offense is a criminal offense under subsection (a)(1);
>
> (2) Any felony under section 571-14 when multiple offenses are charged through complaint or indictment and at least one other offense is a violation of an order issued pursuant to chapter 586, a violation of 709-906, or a misdemeanor under the jurisdiction of section 604-8;
>
> (3) Any violation of section 711-1106.4; and
>
> (4) Guardianships and related proceedings concerning incapacitated adults pursuant to article V of chapter 560.

(Emphasis added.)

the phrase in HRS § 571-14(a)(1) — "[e]xcept as provided in sections 603-21.5" — as referring to the concurrent circuit court jurisdiction set out in HRS § 603-21.5(b). See State v. Bautista, 86 Hawai'i 207, 213, 948 P.2d 1048, 1054 (1997) ("[C]ourts are bound to give effect to all parts of a statute" and "no clause, sentence, or word shall be construed as superfluous[.]" (citation omitted)). In other words, the Family Court has exclusive jurisdiction as provided in HRS § 571-14(a)(1), but one exception is where the Circuit Court has concurrent jurisdiction under HRS § 603-21.5(b).[11]

With that statutory structure, we must construe the Circuit Court's general jurisdiction over criminal offenses established by HRS § 603-21.5(a)(1), in conjunction with what is covered by the exclusive jurisdiction of the Family Court under HRS § 571-14(a)(1). In this regard, we recognize that HRS § 571-14(a)(1) provides exclusive jurisdiction for family courts "to try" cases like this. But that does not mean family courts have exclusive jurisdiction over all aspects of such cases. This reading of HRS § 571-14(a)(1) is consistent with the plain language of that statute and is also consistent with the Circuit Court's jurisdiction expressly established for prosecutions by

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[11] The Circuit Court did not have concurrent jurisdiction in this case under HRS § 603-21.5(b) because, although the offense charged here is under HRS § 571-14, there are not multiple offenses charged as specified by HRS § 603-21.5(b)(1) and (2).

information under HRS Chapter 806. Specifically, HRS § 806-84(g) states that when an offense is prosecuted by information, "[t]he information shall be filed in the circuit court[.]" (Emphasis added.) In turn, HRS § 806-85(a) and (d) establish the circuit court's jurisdiction to make the probable cause determination on an information:

> (a) When an information is filed, the court having jurisdiction shall review the information and its exhibit to determine whether there is probable cause to believe that the offense charged was committed and that the defendant committed the offense charged.
> . . . .
> (d) As used in this section, "court having jurisdiction" and "court" mean the circuit court; provided that the chief justice may by order authorize district court judges to make probable cause determinations, set bail, and direct the issuance of arrest warrants, as provided by this section.

(Emphases added.)

Here, the Circuit Court had jurisdiction under HRS § 806-84(g) when the information was filed in that court. The Circuit Court also had jurisdiction to make the probable cause determination under HRS § 806-85(a) and (d).

The above interpretation of the Family Court's exclusive jurisdiction "to try" this case under HRS § 571-14(a)(1), in conjunction with the Circuit Court's jurisdiction under HRS § 603-21.5(a)(1), HRS § 806-84(g), and HRS § 806-85(a) and (d), is consistent with the legislative purpose underlying family courts. HRS § 571-1 (2018), regarding the construction and purpose of Chapter 571, states in relevant part: "This chapter shall be liberally construed to the end that children and families whose rights and well-being are jeopardized shall be assisted and protected, and secured in those rights through action by the court[.]" In short, a key legislative purpose for HRS Chapter 571 is to protect children through action by the court. To accept Amasiu's argument and construe HRS § 571-14(a)(1) to invalidate the Circuit Court's jurisdiction over the First Information would conflict with that purpose. It would also ignore the Circuit Court's jurisdiction established by HRS § 603-21.5(a)(1), HRS § 806-84(g), and HRS § 806-85(a) and (d).

Further, although HRS § 571-14(a)(1) sets out the family court's exclusive jurisdiction to try a case like this, the family court may waive its jurisdiction. HRS § 571-14(a) ("In any case within paragraph (1) or (2), the court, in its discretion, may waive its jurisdiction over the offense charged[.]").[12] This underscores that the circuit court has jurisdiction over this type of case should a family court waive its jurisdiction under HRS § 571-14(a).

The ICA's analysis regarding the Circuit Court's jurisdiction was different from the above. See Amasiu, 2024 WL 4799710 at *3. It relied on Pedro, but that case is distinct

[12] This language was part of HRS § 571-14(a)(2) when the offense alleged here occurred. HRS § 571-14 has since been amended such that this language is now found under subsection (a)(9). See 2025 Haw. Sess. Laws Act 298, § 11 at 997.

from the circumstances here. See id. (citing Pedro, 149 Hawai'i 256, 263 n.2, 488 P.3d 1235, 1242 n.2). In Pedro, this court noted:

> The indictment was filed on June 29, 2018, in the Family Court of the Second Circuit and the family court arraigned [the defendant]. But [the defendant] was neither the parent nor the guardian of his alleged victim, and the record does not suggest any other basis for the family court's jurisdiction under Hawai'i Revised Statutes ("HRS") § 571-14(a)(1). Any potential jurisdictional defect is, however, immaterial. The Circuit Court of the Second Circuit had jurisdiction under HRS § 603-21.5, and family courts are "divisions of the circuit courts of the State . . ." HRS § 571-3.

149 Hawai'i at 263 n.2, 488 P.3d at 1242 n.2 (emphasis added).

Pedro presented the inverse situation from this case. There, an indictment was filed in family court and there was no basis for family court jurisdiction under HRS § 571-14(a)(1). However, the circuit court had jurisdiction under HRS § 603-21.5, and because family courts are divisions of the circuit courts under HRS § 571-3, the filing in family court was immaterial. In short, the filing in family court was deemed equivalent to filing in circuit court. Here, Amasiu contends filing the First Information in the Circuit Court was invalid because he asserts the Family Court had exclusive jurisdiction over the entire case. Not only are the circumstances in Pedro different, but as explained above there was no jurisdictional defect because the Circuit Court had jurisdiction over the First Information when it was filed and to make a probable cause determination.

It is worth noting, however, that the principles discussed in Pedro mean the Second Information was properly filed in the Family Court, and the Family Court had jurisdiction to make the probable cause determination on the Second Information. Under HRS § 571-3, "[t]he family courts shall be divisions of the circuit courts of the State[.]" Thus, because HRS § 806-84(g) provides that an information be filed in circuit court, and HRS § 806-85(a) and (d) provide that a circuit court has jurisdiction to make the probable cause determination on an information, the family courts can act pursuant thereto as divisions of the circuit courts.

For the above reasons, the Circuit Court had jurisdiction over the First Information.

B. The ICA correctly determined that District Judge Kobayashi had authority to make a probable cause determination on the First Information.

Amasiu argues that District Judge Kobayashi did not have authority to make a probable cause determination on the First Information in the Circuit Court. He argues the Family Court had exclusive jurisdiction and a judge authorized to preside in the Family Court needed to make the probable cause determination. We reject this argument. The ICA correctly determined that District Judge Kobayashi was authorized to make a probable cause determination.

The Circuit Court has general jurisdiction over criminal offenses. HRS § 603-21.5(a)(1). As previously discussed, HRS § 806-85 governs probable cause for information charging and subsection (a) states: "When an information is filed, the court having jurisdiction shall review the information and its exhibit to determine whether there is probable cause to believe that the offense charged was committed and that the defendant committed the offense charged." HRS § 806-85(a) (emphasis added). Subsection (d) then provides: "As used in this section, 'court having jurisdiction' and 'court' mean the circuit court; provided that the chief justice may by order authorize district court judges to make probable cause determinations, set bail, and direct the issuance of arrest warrants[.]" HRS § 806-85(d) (emphasis added).

Pursuant to legislation that had been recently adopted at the time, and would later be codified as HRS § 806-85(d), then Chief Justice Moon issued an order on February 15, 2005, stating "that the District Judges of the First, Second, Third, and Fifth Circuits of the State of Hawai'i are hereby authorized to make probable cause determinations, set bail, and direct the issuance of arrest warrants, as provided by HRS § 806-E." In re Info. Charging (emphases added). Chief Justice Moon's order referenced that it was being issued pursuant to Act 62, section 1 of the 2004 Hawaiʻi Session Laws, which enacted HRS § 806-E(d). Id.

The ICA correctly noted:

> The referenced HRS § 806-E(d) is identical to HRS § 806-85(d), which defines "court having jurisdiction" and "court" as the circuit court, "provided that the chief justice may by order authorize district court judges to make probable cause determinations, set bail, and direct the issuance of arrest warrants, as provided by this section."

Amasiu, 2024 WL 4799710 at *3 n.7.

Thus, the ICA correctly determined District Judge Kobayashi had authority under HRS § 806-85(a) and (d), and Chief Justice Moon's order. Id. at *3-4.

In sum, contrary to Amasiu's argument, District Judge Kobayashi had the authority to make the probable cause determination in his November 22, 2017 Order in the Circuit Court, which commenced prosecution and tolled the statute of limitations.

C. Under HRS § 701-108(5), prosecution by information commences when the court makes a probable cause finding.

HRS § 701-108(5) states: "A prosecution is commenced either when an indictment is found or a complaint filed, or when an arrest warrant or other process is issued, provided that such warrant or process is executed without unreasonable delay." (Emphasis added.)

In turn, HRS § 806-9 provides in relevant part:

> All provisions of law applying to prosecutions upon indictments, . . . and to all proceedings in cases of indictment, whether in the court of original or appellate jurisdiction, shall in the same manner and to the same extent as near as may be, apply to information and all prosecutions and proceedings thereon.

Amasiu argues that an information should be construed as "other process" under HRS § 701-108(5). He thus asserts that a prosecution commences when the information is served, so long as there has been no unreasonable delay. However, Amasiu's argument is inconsistent with the plain reading of HRS § 701-108(5). An information should not be considered "other process" and grouped together with an "arrest warrant." An indictment, complaint, and information are alternative methods to initiate a felony prosecution. Haw. Const. art. I, § 10 ("No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury or upon a finding of probable cause after a preliminary hearing held as provided by law or upon information in writing signed by a legal prosecuting officer under conditions and in accordance with procedures that the legislature may provide[.]"); Moana v. Wong, 141 Hawaiʻi 100, 106, 405 P.3d 536, 542 (2017) (stating "a complaint and preliminary hearing, indictment, and criminal information are separate, parallel methods by which a felony prosecution may be initiated" (citations omitted)).

We interpret the plain language of HRS § 701-108(5), which specifically addresses the statute of limitations and provides that prosecution by indictment commences when an indictment "is found," along with the requirements of HRS § 806-9. As such, the provisions in HRS § 701-108(5) that apply to indictments "shall in the same manner and to the same extent as near as may be, apply to information[.]" HRS § 806-9. The application of HRS § 806-9 to HRS § 701-108(5) means a *finding of probable cause* is required to commence prosecution by information, because under HRS § 701-108(5), prosecution by indictment commences when it "is found." See State v. Abdon, 137 Hawaiʻi 19, 21, 27, 364 P.3d 917, 919, 925 (2016) (taking judicial notice of the date the grand jury found the indictment and concluding "that the prosecution was timely commenced two days before the expiration of the statute of limitations[] . . . when the indictment was found").

Accordingly, we hold that prosecution commences via information charging, for statute of limitations purposes, when an information "is found," meaning there is a probable cause finding.

The ICA incorrectly stated that a prosecution by information commences for statutes of limitations purposes when the information is filed. See Amasiu, 2024 WL 4799710 at *2. The ICA based its interpretation on HRS §§ 806-82 and 806-84(g), and Hawaiʻi Rules of Penal Procedure (**HRPP**) Rule 7(h)(1) (eff. 2012), which provide instructions on the procedure for filing an information, but do not govern the commencement of litigation for statutes of limitations purposes. See id. HRS § 806-82 states: "Criminal charges may be instituted by written information signed by a legal prosecuting officer and filed in the court having jurisdiction thereof when the charge is a felony for which charging by written information is permitted by section 806-83." HRS § 806-84(g) states in pertinent part that "[t]he information shall be filed in the circuit court[.]" HRPP Rule 7(h)(1) states "[a]n indictment or information shall be filed in the circuit court."

Notwithstanding the provisions cited by the ICA related to filing an information, HRS § 701-108(5) is the specific provision related to statute of limitations and *commencing* prosecution for statute of limitations purposes. Under that statute, as discussed above, prosecution via indictment and thus also via information, commences when the indictment or information "is found," meaning there is a probable cause finding.

Here, District Judge Kobayashi made a finding of probable cause on the First Information within the three-year statute of limitations. The prosecution in this case was timely commenced. For the reasons in this opinion, the Family Court did not abuse its discretion in denying Amasiu's motion to dismiss.

V. CONCLUSION

Based on the foregoing grounds, which differ from the ICA, we affirm the ICA's Judgment on Appeal, which affirmed the Family Court's order denying dismissal. We remand the case to the Family Court for further proceedings.

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for petitioner

Arleen Y. Watanabe,
for respondent

/s/ Vladimir P. Devens

/s/ Sabrina S. McKenna

/s/ Todd W. Eddins

/s/ Lisa M. Ginoza

/s/ Henry T. Nakamoto

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