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Intermediate Court of Appeals
CAAP-13-0005132
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CAAP-13-0005132

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
KAYLYN GOWAN, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 12-1-1189)

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon review of the record, it appears that we lack appellate jurisdiction over the appeal that Defendant-Appellant Kalyn A.R. Gowan (Appellant Gowan) has asserted from the Honorable Edward H. Kubo's October 9, 2013 "Findings of Fact, Conclusions of Law and Order Granting Motion to Dismiss Indictment" (the October 9, 2013 dismissal order), because the October 9, 2013 dismissal order does not contain a sentence, as Hawaii Revised Statutes (HRS) § 641-11 (Supp. 2013) requires for an appeal from a judgment in a criminal circuit court case.

"Appellate jurisdiction in a criminal case is purely statutory and exists only when given by some constitutional or statutory provision." State v. Baxley, 102 Hawai'i 130, 133, 73

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v. Kealaiki, 95 Hawai'i 309, 312, 22 P.3d 588, 591 (2001) ("There having been no conviction and sentence in this case, there can be no appeal under HRS § 641-11 from the . . . order granting Defendant's plea deferral").

In the instant case, the October 9, 2013 dismissal order finally ended this circuit court criminal case by dismissing with prejudice all of Plaintiff-Appellee State of Hawaii's pending criminal charges against Appellant Gowan. Understandably, the October 9, 2013 dismissal order contains no sentence, but, the lack of any sentence in the October 9, 2013 dismissal order means that it does not qualify as an appealable judgment under HRS § 641-11. Consequently, we lack appellate jurisdiction over Appellant Gowan's appeal in appellate court case number CAAP-13-0005132. Accordingly,

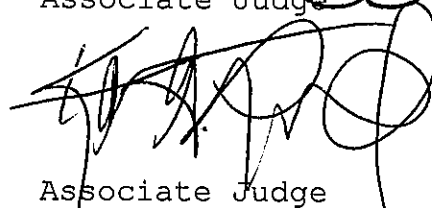
IT IS HEREBY ORDERED that appellate court case number CAAP-13-0005132 is dismissed for lack of appellate jurisdiction.

IT IS FURTHER HEREBY ORDERED that all pending motions or requests in appellate court case number CAAP-13-0005132 are dismissed as moot.

DATED: Honolulu, Hawai'i, February 18, 2014.


Daniel R. Foley
Presiding Judge


Associate Judge


Associate Judge