

*** NOT FOR PUBLICATION ***

NO. 26913

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee

vs.

FRANCIS NAKAMURA, JR., Defendant-Appellant

and

REGINA SMITH, Defendant

2005 MAR 30 PM 2:25

FILED

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-CR. NO. 93-0001)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon review of the record, it appears that appellant appeals the circuit court's October 6, 2004 denial of a request for waiver of fees. The denial of the request for waiver of fees is not a judgment of conviction appealable pursuant to HRS § 641-11 or a certified interlocutory order appealable pursuant to HRS § 641-17. Thus, we lack jurisdiction over this appeal. See Grattafiori v. State, 79 Hawai'i 10, 13, 897 P.2d 937, 940 (1995) ("The right of appeal in a criminal case is purely statutory and exists only when given by some constitutional or statutory provision."). Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, March 30, 2005.

[Handwritten signatures]
Steven Levinson
Francis A. Nakayama
Regina E. Duffy, Jr.