

**Electronically Filed
Intermediate Court of Appeals
CAAP-23-0000282
09-AUG-2023
09:32 AM
Dkt. 28 ODSD**

NO. CAAP-23-0000282

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
JOHN CROKE, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 1CPC-21-0000235)

ORDER DISMISSING APPEAL

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

Upon consideration of Plaintiff-Appellee State of Hawaii's (**State**) July 20, 2023 Motion to Consolidate CAAP-23-0000105 and CAAP-23-0000282 (**Motion to Consolidate**), filed in case numbers CAAP-23-0000105 and CAAP-23-0000282, the papers in support, and the record in case numbers CAAP-23-0000105 and CAAP-23-0000282, it appears that:

(1) The State seeks to consolidate the appeals in case numbers CAAP-23-0000105 and CAAP-23-0000282;

(2) In case number CAAP-23-0000105, Defendant-Appellant John Croke (**Croke**) appeals from the Circuit Court of the First Circuit's (**Circuit Court**) February 27, 2023 minute order (**Minute Order**) dismissing without prejudice the October 26, 2022 Amended Felony Indictment in 1CPC-21-0000235 (**Amended Indictment**);

(3) On March 13, 2023, the Circuit Court reduced the Minute Order to a written order dismissing without prejudice the Amended Indictment (**Dismissal Order**). In case number CAAP-23-0000282, Croke appeals from the Dismissal Order;

(4) We find that the Dismissal Order is a final, appealable order under Hawaii Revised Statutes § 641-11 (2016)

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

and State v. Nicol, 140 Hawai'i 482, 403 P.3d 259 (2017), and that both appeals are from the Dismissal Order. The notice of appeal in CAAP-23-0000105, though premature, is deemed timely-filed under Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 4(b)(4), and the notice of appeal in CAAP-23-0000282 was timely-filed under HRAP Rule 4(b)(1); and

(5) Therefore, the appeal in case number CAAP-23-0000282 is duplicative and unnecessary, as the court will already review the Dismissal Order in case number CAAP-23-0000105. Accordingly, we will *sua sponte* dismiss the appeal in case number CAAP-23-0000282, making the requests for consolidation moot. See Ogeone v. Au, No. CAAP-18-0000190, 2019 WL 972542, at *1 (App. Feb. 27, 2019) (Order).

Therefore, IT IS HEREBY ORDERED that the appeal in case number CAAP-23-0000282 is dismissed as unnecessary, and all pending motions in CAAP-23-0000282 are dismissed as moot.

IT IS FURTHER ORDERED that the Motion to Consolidate filed in CAAP-23-0000105 is denied as moot.

IT IS FURTHER ORDERED that the appellate clerk shall file this order in case numbers CAAP-23-0000105 and CAAP-23-0000282.

DATED: Honolulu, Hawai'i, August 9, 2023.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Karen T. Nakasone
Associate Judge