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Intermediate Court of Appeals
CAAP-13-0004785
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NO. CAAP-13-0004785

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellant, v.
TRUDY BALAI, Defendant-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CRIMINAL NO. 06-1-0431)

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION


(By: Foley, Presiding J., Fujise and Leonard, JJ.)

Upon review of the record, it appears that this court lacks jurisdiction over this appeal that Plaintiff-Appellant the State of Hawai'i (State) has asserted from the Circuit Court of the Third Circuit's "Order Granting Motion for Deferred Acceptance of Guilty Plea" (Order Granting Motion for DAG Plea), filed on September 30, 2013, because the appeal is not authorized by Hawaii Revised Statutes (HRS) § 641-13(6) (Supp. 2012). HRS § 641-13(6) authorizes appeals in criminal matters, by and on behalf of the State from "the sentence, on the ground that it is illegal." The Order Granting Motion for DAG Plea does not impose a sentence. See State v. Naititi, 104 Hawai'i 224, 233, 87 P.3d 893, 902 (2004) (citation, internal quotation marks, and brackets in original omitted) ("[S]tatutes granting the State the right of

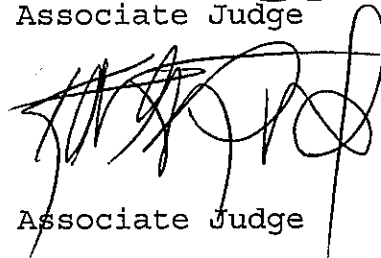
appeal in criminal cases must be strictly construed."). No other subsection of HRS § 641-13 (Supp. 2012) authorizes the appeal. Consequently, this court lacks jurisdiction over the appeal.

Therefore, IT IS HEREBY ORDERED that appellate court case number CAAP-13-0004785 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, February 26, 2014.


Presiding Judge


Associate Judge


Associate Judge