

*** NOT FOR PUBLICATION ***

NO. 25800

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee

vs.

JASON KIM, Defendant-Appellant

APPEAL FROM THE THIRD CIRCUIT COURT
(CR. NO. 02-1-0149)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that the defendant-appellant's appeal of the March 31, 2003 order dismissing the indictment without prejudice is not authorized by HRS §§ 641-11 or 641-17, which authorize a defendant in a circuit court criminal case to appeal only from a judgment of conviction or a certified interlocutory order. 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, August 12, 2003.

I concur in the result.