***** FOR PUBLICATION *****

IN THE SUPREME COURT OF THE STATE OF HAWAIʻI

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STATE OF HAWAIʻI, Plaintiff-Appellant

v.

ALICIA ANNE BOHANNON, Defendant-Appellee.

NO. 24095

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(TRAFFIC NO. 99-417579)

AUGUST 21, 2003

LEVINSON, J., WITH WHOM MOON, C.J., JOINS, AND NAKAYAMA, J., CONCURRING SEPARATELY AND DISSENTING, AND ACOBA, J., DISSENTING, AND INTERMEDIATE COURT OF APPEALS CHIEF JUDGE BURNS, ASSIGNED BY REASON OF VACANCY, CONCURRING SEPARATELY

OPINION BY LEVINSON, J., IN WHICH
MOON, C.J., JOINS, ANNOUNCING THE JUDGMENT OF THE COURT

The plaintiff-appellant State of Hawaiʻi [hereinafter, "the prosecution"] appeals from (1) the order of the district court of the first circuit, the Honorable Paula Devens presiding, file-stamped on January 25, 2001 but signed by Judge Devens on January 31, 2001, granting the defendant-appellee Alicia Anne Bohannon's motion to suppress items of evidence [hereinafter, "motion to suppress"] and oral motion to dismiss and (2) the order of the district court of the first circuit, the Honorable Paula Devens also presiding, file-stamped on December 11, 2000 but signed by Judge Devens on January 22, 2001, denying the prosecution's motion for reconsideration of the oral order granting Bohannon's motions to suppress and to dismiss.

On appeal, the prosecution contends that the district court erred in granting Bohannon's motion to suppress on the alternative grounds (1) that Honolulu Police Department (HPD) Officer Colby Kashimoto testified to sufficient "specific and articulable facts" to justify the investigative stop of Bohannon and (2) that the "public safety" and "community caretaking" exceptions to the warrant requirement justified the investigative stop because Officer Kashimoto had reasonable suspicion to believe that Bohannon was not operating her vehicle "in a safe and prudent manner." Bohannon responds that this court lacks jurisdiction to address the merits of the prosecution's appeal, the prosecution having failed to file a timely notice of appeal in the district court.

We hold that this court has jurisdiction to address the merits of the prosecution's appeal, inasmuch as the prosecution filed its notice of appeal within thirty days of the effective dates of both the written order granting Bohannon's motions to suppress and to dismiss and the written order denying the prosecution's motion for reconsideration, which was therefore timely pursuant to Hawai'i Rules of Appellate Procedure (HRAP) Rule 4(b) (1999).[1] We further hold that Officer Kashimoto had reasonable suspicion to stop Bohannon and, therefore, that the district court erred in granting Bohannon's motions to suppress and to dismiss. Accordingly, we vacate the district court's

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[1] HRAP Rule 4(b) provides in relevant part:

> **Appeals in Criminal Cases.**
> (1) Time and Place of Filing. In a criminal case, the notice of appeal shall be filed in the . . . district . . . court within 30 days after the entry of the judgment or order appealed from.
> . . . .
> (3) Entry of Judgment or Order Defined. A judgment or order is entered within the meaning of this subsection when it is filed with the clerk of the court.

order granting Bohannon's motions to suppress and to dismiss and remand this matter to the district court for further proceedings consistent with this opinion.

I. BACKGROUND

The present matter arises out of an incident that occurred on November 28, 1999, during which HPD Officer Kashimoto stopped Bohannon at the intersection of Kalākaua Avenue and Ala Wai Boulevard and subsequently arrested her for driving under the influence of intoxicating liquor, in violation of Hawai'i Revised Statutes (HRS) § 291-4 (Supp. 1999).[2] The following evidence was adduced at the hearing on Bohannon's motion to suppress items of evidence obtained subsequent to the investigative stop (including the results of Bohannon's field sobriety test), conducted by the district court on May 26, 2000.

On November 28, 1999, at approximately 2:24 a.m., Officer Kashimoto was on routine patrol duty in the City and County of Honolulu. He stopped his vehicle, a three-wheeled Cushman, at the intersection of Kalākaua Avenue and Ala Wai

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[2] HRS § 291-4 provided in relevant part:

> **Driving under the influence of intoxicating liquor.** (a) A person commits the offense of driving under the influence of intoxicating liquor if:
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> (1) The person operates or assumes actual physical control of the operation of any vehicle while under the influence of intoxicating liquor, meaning that the person concerned is under the influence of intoxicating liquor in an amount sufficient to impair the person's normal mental faculties or ability to care for oneself and guard against casualty; or
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> (2) The person operates or assumes actual physical control of the operation of any vehicle with .08 or more grams of alcohol per one hundred milliliters or cubic centimeters of blood or .08 or more grams of alcohol per two hundred ten liters of breath.

Effective January 1, 2002, the legislature repealed HRS § 291-4 and replaced it with HRS § 291E-61. See 2000 Haw. Sess. L. Act 189, § 30 at 432.

Boulevard "in the makai[3] most lane" and waited for the traffic light to turn from red to green. Officer Kashimoto testified that, at the time of the subject incident, the area was well lit -- i.e., that the overhead street lamps and Officer Kashimoto's headlights, back lights, and brake lights were all illuminated -- and that there was nothing in the area to obstruct Bohannon's view of Officer Kashimoto's vehicle or the traffic lights ahead of her.

While Officer Kashimoto waited at the intersection, he heard the "screeching of tires coming from behind [his] vehicle"; the screeching sound persisted for approximately two seconds. Officer Kashimoto "immediately looked into [his] rear view mirror [and] observed [Bohannon's] vehicle trying to come to a screeching halt [in order] to avoid colliding into [his] vehicle."[4] Based on the fact that Bohannon's vehicle was close enough to Officer Kashimoto's vehicle that he was unable to see Bohannon's headlights, Officer Kashimoto surmised that Bohannon's vehicle had stopped "within two feet" of his vehicle. Officer Kashimoto further noted that there were no other vehicles in the immediate vicinity; for that reason, he activated his siren and "blue flashing" lights and circled around to Bohannon's vehicle

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[3] "Makai" means "on the seaside, toward the sea, in the direction of the sea." M.K. Pukui & S.H. Elbert, Hawaiian Dictionary 114 (Rev. Ed. 1986). We are unable to determine from the record before us precisely on what street and in what direction Officer Kashimoto was driving at the time of the subject incident.

[4] Officer Kashimoto further testified that, two weeks prior to the subject incident, he had been involved in a rear-end collision, during which he heard "the screeching of tires" immediately preceding the impact from the vehicle behind him. During argument, defense counsel posited that Officer Kashimoto's prior rear-end collision had possibly caused him to be "hypersensitive" to the sound of "screeching tires," the essential fact upon which he had based his reasonable suspicion to stop Bohannon. As discussed infra in section III.B, however, Officer Kashimoto's subjective state of mind was not ultimately dispositive of the question whether he possessed reasonable suspicion to stop Bohannon. See State v. Bolosan, 78 Hawai'i 86, 92, 890 P.2d 673, 679 (1995).

in order to investigate whether she was operating her vehicle "in a safe and prudent manner."[5] Bohannon did not immediately respond to Officer Kashimoto's signal for her to pull over -- i.e., the flashing lights and siren -- but "stayed exactly where she was [when] she came to a stop." Officer Kashimoto testified that Bohannon appeared to be "trying to figure out what was going on." After approximately ten seconds had elapsed, Bohannon maneuvered her vehicle around the corner onto Ala Wai Boulevard and stopped to speak with Officer Kashimoto.

At the hearing, the prosecution argued that, based on "specific and articulable facts" -- i.e., the good lighting, the screeching of Bohannon's tires for approximately two seconds, and her abrupt stop within two feet of Officer Kashimoto's vehicle -- Officer Kashimoto had reasonable suspicion to believe that Bohannon was not operating her vehicle "in a safe and prudent manner" and, thus, was justified in stopping her to investigate the situation. The prosecution reminded the district court that, further to the "reasonable suspicion" standard applicable to investigative stops, Officer Kashimoto "did not have to actually see . . . a crime being committed." The district court granted Bohannon's motion to suppress, reasoning that "[t]he screeching of tires alone was not enough to justify [an investigative stop by] the police officer." Based on the district court's ruling, Bohannon orally moved to dismiss the case against her; the district court granted the motion.

It appears that, on May 26, 2000, the district court clerk recorded the foregoing dispositions on the traffic

[5] At the hearing on Bohannon's motion to suppress, Officer Kashimoto conceded that the "screeching of tires" was not, in and of itself, "against the law."

calender, the notation stating in relevant part as follows:

> THE COURT FOUND THAT THERE WAS NO . . . REASONABLE SUSPICION FOR THE STOP. ATTY PHILLIPS FOR DISMISSAL - GRANTED BY THE COURT.

On June 13, 2000, the prosecution filed a motion for reconsideration of the order granting Bohannon's motion to suppress [hereinafter, "motion for reconsideration"].[6] On July 17, 2000, the district court conducted a hearing on the matter, during which the prosecution argued, for the first time, that the "public safety" exception to the warrant requirement applied to Officer Kashimoto's investigative stop. The district court denied the motion, remarking as follows:

> Alright. Well, the problem that the Court has is that the observation by [Officer Kashimoto] was ever so brief. He only testified to observing the two-minute [sic] screeching of tires and then observing [Bohannon] come to a screeching halt, stopping two feet behind [Officer Kashimoto's] vehicle. Had the officer continued to observe [Bohannon's] driving instead of pulling [her] over after the initial episode or had . . . [Officer Kashimoto] witnessed other actions that would have led a reasonable person to believe that [Bohannon] was a hazard to the public, perhaps[, under the] public safety justification[,] [Officer Kashimoto] could [have] stopped [Bohannon]. But what we have here is such a brief observation that . . . these facts could not lead a reasonable person to believe [that] there was reasonable concerns for public safety or that this vehicle was being driven . . . unsafe[ly] or [in an] imprudent manner.
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> On these facts, the Court finds that a man of reasonable caution . . . would not be warranted in believing that criminal activity was afoot and the action taken was appropriate. The stop of [Bohannon] was not based on reasonable suspicion. The stop was improper. Reconsideration denied.

It appears that, on the same day, the district court clerk recorded the foregoing disposition on the traffic calender, the notation stating in relevant part as follows:

> HRG ON MOTION TO RECONSIDER ORDER GRANTING MOTION TO SUPPRESS ITEMS HAD . . . . MOTION DENIED BY THE COURT.

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[6] The prosecution's motion for reconsideration obviously addressed the district court's oral order granting Bohannon's motion to suppress, insofar as the district court did not sign its written order granting the motion until January 31, 2001.

On December 11, 2000, the district court clerk file-stamped a written order denying the prosecution's motion for reconsideration, although the order reflects that Judge Devens signed it on January 22, 2001. On January 25, 2001, the district court clerk file-stamped a written order granting Bohannon's motion to suppress, although the order reflects that Judge Devens signed it on January 31, 2001.[7] On February 15, 2001, the prosecution filed a notice of appeal. Oral argument in the present matter was conducted on September 4, 2002.[8]

II. STANDARDS OF REVIEW

A. Jurisdiction

> "The existence of jurisdiction is a question of law that we review de novo under the right/wrong standard." Amantiad v. Odum, 90 Hawai'i 152, 158, 977 P.2d 160, 166 (1999) (quoting Lester v. Rapp, 85 Hawai'i 238, 241, 942 P.2d 502, 505 (1997)) (internal quotation marks omitted). Regarding appellate jurisdiction, this court has noted,
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> > [J]urisdiction is "the base requirement for any court resolving a dispute because without jurisdiction, the court has no authority to consider the case." Housing Finance & Dev. Corp. v. Castle, 79 Hawai'i 64, 76, 898 P.2d 576, 588 (1995). With regard to appeals, "[t]he remedy by appeal is not a common law right and exists only by virtue of statutory or constitutional provision." In re Sprinkle & Chow Liquor License, 40 Haw. 485, 491 (1954). Therefore, "the right of appeal is limited as provided by the legislature and compliance with the methods and procedure prescribed by it is obligatory." In re Tax Appeal of Lower Mapunapuna Tenants' Ass'n, 73 Haw. 63, 69, 828 P.2d 263, 266 (1992).
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> TSA Int'l Ltd. v. Shimizu Corp., 92 Hawai'i 243, 265, 990 P.2d 713, 735 (1999).

State v. Adam, 97 Hawai'i 475, 481, 40 P.3d 877, 883 (2002).

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[7] It is common-sensical that an unsigned order is ineffective. That being the case, the written order denying the prosecution's motion for reconsideration did not become effective until January 22, 2001, when Judge Devens signed it. Likewise, the written order granting Bohannon's motions to suppress and to dismiss did not become effective until January 31, 2001.

[8] Oral argument in the present matter took place prior to the retirement of Associate Justice Mario R. Ramil. Upon his retirement, this court issued an order, filed on March 5, 2003, assigning Intermediate Court of Appeals Chief Judge James S. Burns as a substitute justice.

B. Motions To Suppress

> "We answer questions of constitutional law by exercising our own independent judgment based on the facts of the case. . . . Thus, we review questions of constitutional law under the 'right/wrong' standard." State v. Jenkins, 93 Hawai'i 87, 100, 997 P.2d 13, 26 (2000) (citations, some quotation signals, and some ellipsis points omitted). Accordingly, "[w]e review the circuit court's ruling on a motion to suppress de novo to determine whether the ruling was 'right' or 'wrong.'" Id. (citations and some quotation signals omitted).

State v. Locquiao, 100 Hawai'i 195, 203, 58 P.3d 1242, 1250 (2002) (quoting State v. Poaipuni, 98 Hawai'i 387, 392, 49 P.3d 353, 358 (2002)).

C. Statutory Interpretation

> "[T]he interpretation of a statute . . . is a question of law reviewable de novo." State v. Arceo, 84 Hawai'i 1, 10, 928 P.2d 843, 852 (1996) (quoting State v. Camara, 81 Hawai'i 324, 329, 916 P.2d 1225, 1230 (1996) (citations omitted)). See also State v. Toyomura, 80 Hawai'i 8, 18, 904 P.2d 893, 903 (1995); State v. Higa, 79 Hawai'i 1, 3, 897 P.2d 928, 930 (1995); State v. Nakata, 76 Hawai'i 360, 365, 878 P.2d 699, 704 (1994). . . .
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> Gray v. Administrative Director of the Court, 84 Hawai'i 138, 144, 931 P.2d 580, 586 (1997) (some brackets added and some in original). See also State v. Soto, 84 Hawai'i 229, 236, 933 P.2d 66, 73 (1997). Furthermore, our statutory construction is guided by established rules:
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> > When construing a statute, our foremost obligation is to ascertain and give effect to the intention of the legislature, which is to be obtained primarily from the language contained in the statute itself. And we must read statutory language in the context of the entire statute and construe it in a manner consistent with its purpose.
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> > When there is doubt, doubleness of meaning, or indistinctiveness or uncertainty of an expression used in a statute, an ambiguity exists. . . .
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> > In construing an ambiguous statute, "[t]he meaning of the ambiguous words may be sought by examining the context, with which the ambiguous words, phrases, and sentences may be compared, in order to ascertain their true meaning." HRS § 1-15(1) [(1993)]. Moreover, the courts may resort to extrinsic aids in determining legislative intent. One avenue is the use of legislative history as an interpretive tool.
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> Gray, 84 Hawai'i at 148, 931 P.2d at 590 (quoting State v. Toyomura, 80 Hawai'i 8, 18-19, 904 P.2d 893, 903-04 (1995)) (brackets and ellipsis points in original) (footnote omitted). This court may also consider "[t]he reason and spirit of the law, and the cause which induced the legislature to enact it . . . to discover its true meaning." HRS § 1-15(2)(1993). "Laws in pari materia, or upon the same subject matter, shall be construed with reference to

> each other. What is clear in one statute may be called upon in aid to explain what is doubtful in another." HRS § 1-16 (1993).

State v. Rauch, 94 Hawai'i 315, 322-23, 13 P.3d 324, 331-32 (2000) (quoting State v. Kotis, 91 Hawai'i 319, 327, 984 P.2d 78, 86 (1999) (quoting State v. Dudoit, 90 Hawai'i 262, 266, 978 P.2d 700, 704 (1999) (quoting State v. Stocker, 90 Hawai'i 85, 90-91, 976 P.2d 399, 404-05 (1999) (quoting Ho v. Leftwich, 88 Hawai'i 251, 256-57, 965 P.2d 793, 798-99 (1998) (quoting Korean Buddhist Dae Won Sa Temple v. Sullivan, 87 Hawai'i 217, 229-30, 953 P.2d 1315, 1327-28 (1998))))))).

III. DISCUSSION

A. This Court Has Appellate Jurisdiction To Address The Merits Of The Prosecution's Appeal.

As a threshold matter, Bohannon asserts that this court lacks jurisdiction to consider the prosecution's appeal. Relying on Hawai'i Rules of Penal Procedure (HRPP) Rule 32(c)(2) (1999),[9]

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[9] HRPP Rule 32(c)(2) provides:

> **Sentence and judgment.**
> . . . .
> (c) Judgments.
> . . . .
> (2) IN THE DISTRICT COURT. A judgment of conviction in the district court shall set forth the disposition of the proceedings and the same shall be entered on the record of the court. The notation of the judgment by the clerk on the calendar constitutes the entry of the judgment.

Effective July 1, 2000, HRPP Rule 44(b) (2000) governs orders and the entry of orders in the district court and provides in relevant part:

> **Settlement of findings of fact, conclusions of law, and order; entry of order.**
> . . . .
> (b) **In the district court.**
> (1) After the decision or ruling of the court following a hearing on a motion, the clerk shall note the decision or ruling on the calendar. The notation of the decision or ruling on the calendar shall constitute the order and the entry thereof. . . .

We note that HRPP Rule 32(c)(2) continues to govern judgments and the entry of judgments in the district courts. State v. Graybeard, 93 Hawai'i 513, 518 (continued...)

Bohannon contends that the prosecution failed to file its notice of appeal within thirty days from the clerk's notation in the traffic calender of the district court's oral orders (1) granting Bohannon's motion to suppress and (2) granting Bohannon's oral motion to dismiss. Bohannon argues that the May 26, 2000 notation constituted the order from which the prosecution should have appealed, pursuant to HRAP Rule 4(b)(1), and, therefore, that the prosecution's notice of appeal, filed on February 15, 2001, was untimely and mandates that this court dismiss the present appeal for lack of jurisdiction.

Bohannon further asserts that, because the prosecution's notice of appeal did not expressly refer to the district court's order denying its motion for reconsideration, the notice of appeal "is expressly limited to the order granting the motion to suppress." Bohannon maintains, assuming arguendo that the prosecution impliedly incorporated the district court's order denying its motion for reconsideration into its notice of appeal, the notice of appeal was nevertheless untimely pursuant to HRPP Rule 44(b)(1), which was in effect at the time the clerk noted the disposition of the foregoing motion in the traffic calendar.

The prosecution responds that the district court's oral statement granting Bohannon's motions to suppress and to dismiss,

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[9](...continued)
n.5, 6 P.3d 385, 390 n.5 (App. 2000) (recommending "that HRPP Rule 32(c)(2) be amended to expressly recognize a separate, filed judgment as the entry of judgment in the district courts, either as an alternative to the clerk's notation of the judgment on the court calendar or as the sole and exclusive method of entry of judgment"). Inasmuch as HRPP Rule 44(b)(1) was not in effect at the time the district court announced its oral order granting Bohannon's motions to suppress and to dismiss, it is inapplicable to the May 26, 2000 notation by the clerk on the traffic calendar. HRPP Rule 44(b)(1), however, was in effect on July 17, 2000, the time at which the district court announced its oral order denying the prosecution's motion for reconsideration; we discuss the applicability of HRPP Rule 44(b)(1) to the foregoing motion infra in section III.A.1.

noted in the traffic calendar by the clerk on May 26, 2000, did not constitute an appealable order, pursuant to HRAP Rule 4(b)(1). Rather, the prosecution maintains that the written order granting Bohannon's motions to suppress and to dismiss, filed-stamped by the district court clerk on January 25, 2001 and signed by Judge Devens on January 31, 2001, constituted the "entry" of the orders within the meaning of HRAP Rule 4(b)(1) and for purposes of appeal and, thus, that the prosecution's notice of appeal, filed on February 15, 2001, was timely. Moreover, the prosecution argues that, inasmuch as there was no "judgment of conviction" in the present matter, HRPP Rule 32(c)(2) is inapplicable to the present appeal altogether.

Finally, with respect to Bohannon's contention that the district court's order denying the prosecution's motion for reconsideration was outside the scope of its notice of appeal, the prosecution asserts (1) that "the very subject matter of the motion to reconsider was the propriety of the court's . . . order granting the motion to suppress" and (2) that the prosecution's "right to appeal from the order granting [Bohannon's] motion to suppress under HRS [§] 641-13(7) . . . encompasses a right to appeal from the . . . order denying [its] motion to reconsider [the district court's] order granting the motion to suppress." We agree with the prosecution.

"A court always has jurisdiction to determine whether it has jurisdiction over a particular case." State v. Brandimart, 68 Haw. 495, 496, 720 P.2d 1009, 1010 (1986); State v. Graybeard, 93 Hawai'i 513, 516, 6 P.3d 385, 388 (App. 2000) ("An appellate court has . . . an independent obligation to ensure jurisdiction over each case and to dismiss the appeal sua sponte if a jurisdictional defect exists."). Moreover,

"compliance with the requirement of the timely filing of a notice of appeal[, as set forth in HRAP Rule 4(b)(1),] is jurisdictional." Id. at 497, 720 P.2d at 1010; Graybeard, 93 Hawai'i at 516, 6 P.3d at 388 ("An appellant's failure to file a timely notice of appeal is a jurisdictional defect which cannot be waived by the parties or disregarded by the court in the exercise of its discretion.").

For purposes of the present matter, we address the following two questions: (1) whether HRPP Rule 32(c)(2), see supra note 9, HRPP Rule 44(b)(1), see supra note 9, or HRAP Rule 4(b)(1), see supra note 1, triggered the time period within which the prosecution was required to file its notice of appeal and (2) whether the time for the prosecution's filing of its notice of appeal began to run on (a) May 26, 2000, being the date on which the district court clerk noted on the traffic calendar the district court's oral statement granting Bohannon's motions, (b) July 17, 2000, being the date on which the district court clerk noted on the traffic calendar the district court's oral statement denying the prosecution's motion for reconsideration, (c) January 22, 2001, being the date on which the district court signed its written order denying the prosecution's motion for reconsideration, or (d) January 31, 2001, being the date on which the district court signed its written order granting Bohannon's motions to suppress and to dismiss.

1. HRAP Rule 4(b) Governs The Timing Requirement For Appeals In *All* Criminal Cases.

We note at the outset that HRPP Rule 32(c)(2), see supra note 9, by its plain language, is inapplicable to the present matter. The rule expressly provides in relevant part that "[t]he notation of the judgment by the clerk on the calendar

constitutes the entry of the judgment." (Emphasis added.) Inasmuch as Bohannon's case never proceeded to a judgment of conviction, the district court having granted Bohannon's motion to suppress and thereafter having granted her oral motion to dismiss the case against her, there was simply no judgment of conviction from which the prosecution could have filed a notice of appeal. Accordingly, the May 26, 2000 notation of the district court's oral statement granting Bohannon's motions to suppress and to dismiss by the clerk on the traffic calendar is irrelevant to the disposition of the present matter. The applicability of HRPP Rule 44(b)(1), however, requires a preliminary determination as to whether the prosecution's notice of appeal subsumed the district court's oral order denying its motion for reconsideration, noted by the clerk in the traffic calendar on July 17, 2000.

A notice of appeal must be both sufficient in form and timely. See City and County of Honolulu v. Midkiff, 57 Haw. 273, 275-76, 554 P.2d 233, 235 (1976). With respect to the first mandate, this court has consistently recognized that "the requirement that the notice of appeal designate the judgment or part thereof appealed from is not jurisdictional." Id. at 275, 554 P.2d at 235 (citations omitted). Further to the foregoing,

> a mistake in designating the judgment, or in designating the part appealed from if only a part is designated, should not result in loss of the appeal as long as the intent to appeal from a specific judgment can be fairly inferred from the notice and the appellee is not misled by the mistake.

Id. at 275-76, 554 P.2d at 235 (quoting 9 Moore's Federal Practice 203.18 (1975)) (emphases added).

In the present matter, the prosecution's notice of appeal did not expressly refer to the district court's order denying its motion for reconsideration, instead stating only that

"the State intends to contest the propriety of the Order Granting Motion to Suppress Items of Evidence . . . ." We believe, however, that the prosecution's intent to appeal from the district court's order denying its motion for reconsideration can be reasonably inferred from its notice of appeal, inasmuch as the district court's order denying the motion for reconsideration was merely an extension of its order granting Bohannon's motions to suppress and to dismiss. Bohannon has asserted no persuasive argument that the failure expressly to include the district court's order denying the motion for reconsideration in the prosecution's notice of appeal was "misleading . . . to [her] detriment." Midkiff, 57 Haw. at 276, 554 P.2d at 235. That being the case, we hold that the prosecution's notice of appeal "is sufficient in form," id., for purposes of an appeal from the district court's written order denying its motion for reconsideration, signed by the district court on January 22, 2001.

With respect to the timeliness of the prosecution's notice of appeal, we must first resolve the apparent conflict between HRPP Rule 44(b)(1) and HRAP Rule 4(b). HRAP Rule (4)(b), which governs the time for filing appeals in criminal cases, provides in relevant part that "[a] judgment or order is entered within the meaning of this subsection when it is filed with the clerk of the court." See supra note 1. Moreover, HRAP Rule 4(b) -- which, by its plain language, makes no distinction between proceedings in the district or circuit courts -- requires that a final and appealable judgment or order in criminal cases be in written form. See State v. Ho, 7 Haw. App. 516, 518-19, 782 P.2d 29, 31 (1989) (construing HRAP Rule 4(b) (1985)), overruled on other grounds in State v. Hoey, 77 Hawai‘i 17, 30, 881 P.2d 504,

516 (1994).

> The State is authorized to appeal from a pre-trial order granting a motion to suppress evidence by HRS § 641-13(7) (Supp. 1988). In State v. Johnson, 50 Haw. 525, 445 P.2d 36 (1968), the supreme court held that Revised Laws of Hawai'i (RLH) 1955 § 212-2, which is now § 641-13, must be strictly construed. . . . We hold that the same rule of strict construction applies to the Rule 4(b) HRAP requirement that the State must file its notice of appeal within 30 days of the entry of the judgment or order appealed from. The State can only appeal from a written order or judgment filed with the clerk. Absent a written order of suppression, the State's notice of appeal in this case did not give rise to appellate jurisdiction. [Citation omitted.]

Id. (footnote and citation omitted) (emphasis added).

By contrast, HRPP Rule 44(b)(1), which, as mentioned supra in note 9, was in effect at the time the district court announced its oral order denying the prosecution's motion for reconsideration, provides in relevant part that "[t]he notation of the decision or ruling on the calendar shall constitute the order and the entry thereof." HRPP Rule 44(b)(1) prescribes the procedure by which an order becomes final in the district courts; the order, however, does not become appealable until a separate written order has been filed with the clerk of the court in accordance with HRAP Rule 4(b)(3).[10] Accordingly, we hold that, in order to appeal a criminal matter in the district court, the appealing party must appeal from a written judgment or order that has been filed with the clerk of the court pursuant to HRAP Rule 4(b)(3).

2. The Prosecution Filed A Timely Notice Of Appeal, Pursuant To HRAP Rule 4(b).

It is well settled that "the right of appeal in a criminal case is purely statutory and exists only when given by some constitutional or statutory provision." State v. Oshiro, 69

[10] Likewise, a photocopy or other replication of the clerk's notation of the decision or ruling on the district court calendar does not satisfy the dictate of HRAP Rule 4(b)(3).

Haw. 438, 441, 746 P.2d 568, 570 (1987). HRS § 641-13 (1993) enumerates the "instances" in which the prosecution may appeal a criminal case from the district and circuit courts, including, inter alia, appeals from "an order . . . sustaining a motion to dismiss," see HRS § 641-13(1), appeals from "an order . . . dismissing the case where the defendant has not been put in jeopardy," see HRS § 641-13(2), and appeals from "a pretrial order granting a motion for the suppression of evidence," see HRS § 641-13(7). Inasmuch as the district court granted Bohannon's motions to suppress and to dismiss, the prosecution had the statutory right to appeal the district court's disposition.

With respect to the timeliness of the prosecution's notice of appeal, HRAP Rule 4(b)(1), see supra note 1, which sets forth the "time and place of filing" a notice of appeal, prescribes that "the notice of appeal shall be filed in the . . . district . . . court within 30 days after the entry of the judgment or order appealed from." HRAP Rule (4)(b)(3), see supra note 1, further provides that "[a] judgment or order is entered within the meaning of [HRAP Rule 4(b)(1)] when it is filed with the clerk of the court." In the present matter, the record reflects that the prosecution filed its notice of appeal on February 15, 2001. We need not reach the question whether the January 22, 2001 written order denying the prosecution's motion for reconsideration, on the one hand, or the January 31, 2001 written order granting Bohannon's motions to suppress and to dismiss, on the other, triggered the thirty-day appeal period prescribed by HRAP Rule 4(b)(1), because the prosecution's notice of appeal was filed well within thirty days of both of the written orders. Accordingly, the prosecution's notice of appeal was timely, and this court has jurisdiction to address the merits

of its appeal.

B. HPD Officer Kashimoto Had Reasonable Suspicion To Stop Bohannon, And, Thus, The District Court Erred In Granting Bohannon's Motions To Suppress And To Dismiss.

The prosecution argues that Officer Kashimoto's testimony at the hearing on Bohannon's motion to suppress established the "specific and articulable facts" to support his belief that Bohannon was operating her vehicle in an unsafe and imprudent manner. The prosecution asserts that the district court erred in relying on "[t]he screeching of tires alone" in its determination that there was no reasonable suspicion to justify Officer Kashimoto's investigative stop, because Officer Kashimoto made several other observations, which, under the totality of the circumstances, established reasonable suspicion to stop Bohannon. Specifically, the prosecution contends that, in addition to the two seconds of screeching tires, Officer Kashimoto observed that (1) Bohannon's vehicle was required to come to a "screeching halt" in order to avoid colliding with the officer's Cushman, (2) Bohannon had nearly rear-ended Officer Kashimoto's Cushman by coming to a complete stop within only two feet of it, (3) the distance between Officer Kashimoto's Cushman and Bohannon's vehicle was so small that Officer Kashimoto was unable to see Bohannon's headlights, and (4) as described supra in section I, Bohannon's "screeching halt" had caused Officer Kashimoto "to release his brake to move his vehicle forward" in order to "maintain [a] sufficient distance." Based on the foregoing observations, the prosecution maintains that "Officer Kashimoto's concern for at least his own safety prior to his stop of [Bohannon's] car[] was objectively reasonable," thereby justifying stopping Bohannon to investigate the situation.

Bohannon responds that the district court correctly granted her motion to suppress, because the prosecution had failed to meet its burden of overcoming the presumption of an unreasonable seizure by establishing that Officer Kashimoto's investigative stop fell within a well-recognized exception to the warrant requirement. Bohannon contends that the prosecution "did not claim that the 'specific facts' gave rise to reasonable suspicion that [Bohannon] was engaged in any criminal law or traffic violation" and that Officer Kashimoto conceded at Bohannon's motion to suppress hearing "that the screeching of brakes was not against the law." In our view, Officer Kashimoto had reasonable suspicion to stop Bohannon.

"A stop of a vehicle for an investigatory purpose constitutes a seizure within the meaning of the constitutional protection against unreasonable searches and seizures[,]" as guaranteed by the fourth amendment to the United States Constitution and article I, section 7 of the Hawai'i Constitution.[11] State v. Bolosan, 78 Hawai'i 86, 92, 890 P.2d 673, 679 (1995).

> In determining the reasonableness of wholly discretionary automobile stops, this court has repeatedly applied the standard set forth in Terry v. Ohio, 392 U.S. 1 (1968). [Citations omitted.] Guided by Terry, we stated in State v. Barnes[, 58 Haw. 333, 568 P.2d 1207 (1977)]:
>
> > To justify an investigative stop, short of arrest based on probable cause, "the police officer must be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion." Terry v. Ohio, supra

[11] The fourth amendment to the United States Constitution provides in relevant part that "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause . . . ." Article I, section 7 of the Hawai'i Constitution provides in relevant part that "[t]he right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches, seizures and invasions of privacy shall not be violated; and no warrants shall issue but upon probable cause . . . ."

> [392 U.S.], at 21. The ultimate test in these situations must be whether from these facts, measured by an objective standard, a man of reasonable caution would be warranted in believing that criminal activity was afoot and that the action taken was appropriate. 58 Haw. at 338, 568 P.2d at 1211 (citations omitted).
>
> State v. Powell, 61 Haw. 316, 321-22, 603 P.2d 143, 147-48 (1979).

Id. (some brackets added and some omitted).

Measured by the foregoing standard, Officer Kashimoto's investigative stop of Bohannon was lawful. While we agree with Bohannon, as did Officer Kashimoto, that the "screeching of tires," in and of itself, did not constitute an offense within the HRS and, therefore, could not, without more, provide the basis for the requisite reasonable suspicion to stop Bohannon, the officer's additional observations, considered in concert with the reasonable inferences arising from the "screeching of tires," warranted an objectively reasonable suspicion that Bohannon had, at a minimum, committed the offense of reckless driving of a vehicle, in violation of HRS § 291-2 (Supp. 1999).[12] Despite the fact that Officer Kashimoto articulated his suspicion in terms of an apparent failure to drive "in a safe and prudent manner," the foregoing traffic statutes essentially embrace Officer Kashimoto's reasonable concerns at the time of the subject incident. Thus, viewing the present matter from the totality of the circumstances known to Officer Kashimoto at the time of the incident, we hold that his investigative stop of Bohannon was "within the parameters of permissible police conduct," Barnes, 58 Haw. at 337, 568 P.2d at 1211, and, consequently, that the district court erred in granting Bohannon's motions to suppress

[12] HRS § 291-2 provides in relevant part that "[w]hoever operates any vehicle . . . recklessly in disregard of the safety of persons or property is guilty of reckless driving of vehicle . . . and shall be fined not more than $1,000 or imprisoned not more than thirty days, or both.

and to dismiss.[13]

IV. CONCLUSION

Based on the foregoing discussion, we vacate the district court's order granting Bohannon's motions to suppress and to dismiss and remand this matter for further proceedings consistent with this opinion.

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[13] In light of our disposition herein, we need not and do not address the prosecution's argument that, notwithstanding that Officer Kashimoto had reasonable suspicion to stop Bohannon's vehicle, the so-called "public safety" and "community caretaking" exceptions to the warrant requirement apply to the present matter and, therefore, that the district court erred in denying its motion for reconsideration of the oral order granting Bohannon's motions to suppress and to dismiss.