

*** NOT FOR PUBLICATION ***

NO. 25858

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee

vs.

PIO KAPELI, Defendant-Appellant

APPEAL FROM THE FAMILY COURT OF THE THIRD CIRCUIT
(FC-CR. NO. 99-251K)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that the family district court's May 2, 2003 oral decision denying the March 17, 2003 motion to vacate the judgment of conviction is appealable upon entry of an order denying the motion. See HRS §§ 571-54 and 641-12; HRAP 4(b)(1) and 4(b)(3). An order denying the March 17, 2003 motion has not been entered. Thus, this appeal is premature and we lack jurisdiction. Therefore,

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

DATED: Honolulu, Hawai'i, December 17, 2003.