

NO. 26609

IN THE SUPREME COURT OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee

vs.

KEONI K. BERMUDEZ, Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 03-1-0791)

ORDER GRANTING MOTION FOR ORDER OF DISMISSAL OF APPEAL
(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon consideration of the motion for an order dismissing the appeal of Defendant-Appellant Keoni K. Bermudez filed by Appellant's attorney, the papers in support, and the records and files herein, it appears that: (1) Appellant was convicted of the offense of attempted theft in the second degree and sentenced to a term of probation; (2) on June 4, 2004, the public defender's office filed a notice of appeal on behalf of Appellant; (3) Appellant has not maintained contact with his attorney; (4) a letter was sent to Appellant's last known address informing Appellant that he must remain in contact with his attorney and that failure to contact his attorney may result in dismissal of his appeal; (5) Appellant did not contact his attorney or otherwise respond to the letter; (6) one telephone number Appellant provided is no longer in service and the person answering the telephone at the second number Appellant provided had no knowledge of Appellant's whereabouts; (7) Appellant has

not been reporting to his probation officer, the telephone number he provided to the probation department is no longer in service, and his probation officer does not know where he can be located; and (8) Appellant has abandoned his appeal. Therefore,

IT IS HEREBY ORDERED that the motion for dismissal of the appeal is granted, and this appeal is dismissed pursuant to HRAP Rule 42(c).

DATED: Honolulu, Hawai'i, November 18, 2004.

James S. Tabe,
Deputy Public Defender,
for defendant-appellant
on the motion