

NO. 27638

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee

vs.

DEVIN E. CROWE, Defendant-Appellant

APPEAL FROM THE SECOND CIRCUIT COURT
(CR. NO. 05-1-0547)

ORDER

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

Upon consideration of Defendant-Appellant Devin E. Crowe's motion to expedite review of the notice of expedited appeal from the order pertaining to bail, the papers in support, and the records and files herein, it appears that: (1) Appellant was charged with offenses in the Circuit Court of the Second Circuit; (2) the circuit court set bail at \$300,000 and later reduced bail to \$250,000; (3) Appellant seeks review of the bail order pursuant to HRAP Rule 9(a)(1); (4) HRAP Rule 9(a)(1) governs appeals authorized by law from an order refusing or imposing conditions of release prior to a judgment or conviction; (5) HRS chapter 804 governs the imposition of bail, and there is no appeal authorized by law from an order refusing or imposing conditions of release prior to a judgment of conviction, see also HRS § 641-11 (appeals in criminal cases are authorized only from the judgment of the circuit court, which is the sentence of the court); (6) HRAP Rule 9(a)(2) provides that review of orders

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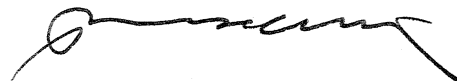
respecting release prior to a judgment of conviction may be obtained by application for an extraordinary writ pursuant to Rule 21 or an application for a writ of habeas corpus, see Pelekai v. White, 75 Haw. 357, 861 P.2d 1205 (1993) (defendant filed a petition for writ of mandamus seeking review of family court bail order); Sakamoto v. Chang, 56 Haw. 447, 539 P.2d 1197 (1975) (defendant filed a petition for a writ of habeas corpus seeking review of circuit court bail order). Therefore,

IT IS HEREBY ORDERED that the motion to expedite the appeal is denied.

IT IS FURTHER ORDERED that the appeal from the order pertaining to bail is dismissed without prejudice to a petition for writ of mandamus or a writ of habeas corpus.

DATED: Honolulu, Hawai'i, December 30, 2005.

Hayden Aluli
and Mimi Desjardins
for defendant-appellant
on the motion



James E. Dully, Jr.