

NO. 27280

IN THE SUPREME COURT OF THE STATE OF HAWAII

BRUCE G. PINKERTON, Petitioner-Appellant

vs.

STATE OF HAWAII, Respondent-Appellee

APPEAL FROM THE FIRST CIRCUIT COURT
(SPP NO. 04-1-0053; CR. NO. 95-2123)

E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAII

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FILED

ORDER

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

Upon consideration of Respondent-Appellee State of Hawaii's motion to dismiss the appeal of Petitioner-Appellant Bruce A. Pinkerton on the ground that the appeal is moot; the papers in support, and the records and files herein, it appears that: (1) Appellant is appealing from the order denying a petition for post conviction relief without a hearing; (2) in the underlying petition for post conviction relief and on appeal, Appellant contends the Hawai'i Paroling Authority abused its discretion by revoking parole; thus, Appellant argues he is entitled to release from incarceration and return to parole status; (3) as of January 2, 2006, Appellant served his entire term of imprisonment and was released from incarceration; (4) inasmuch as Appellant served his entire term of imprisonment and was released from incarceration, the court can grant no effective remedy to Appellant; and (5) the appeal is moot. See AIG Hawai'i Ins. Co., Inc. v. Bateman, 82 Hawai'i 453, 458-459, 923 P.2d 395,

400-401 (1996) (the mootness doctrine is properly invoked where events have so affected the relations between the parties that the two conditions for justiciability relevant on appeal - adverse interest and effective remedy - have been compromised; the duty of the supreme court as of every judicial tribunal is to decide actual controversies by a judgment which can be carried into effect, and not to give opinions upon moot questions which cannot affect the matter in issue in the case before it).

Therefore,

IT IS HEREBY ORDERED that the motion to dismiss is granted, and this appeal is dismissed.

DATED: Honolulu, Hawai'i, March 22, 2006.

Lisa M. Itomura,
Deputy Attorney General,
for respondent-appellee
on the motion

Bernice E. Duggan, Jr.