

*** NOT FOR PUBLICATION ***

NO. 27611

IN THE SUPREME COURT OF THE STATE OF HAWAII

NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAII

2006 JUN 28 PM 1:51

FILED

STATE OF HAWAI'I, Plaintiff-Appellee

vs.

MICHAEL ESTRELLA, Defendant-Appellant

APPEAL FROM THE SECOND CIRCUIT COURT
(CR. NOS. 98-0749, 99-0255, 00-1-0371, FCCR NO. 00-1-0967)

ORDER DISMISSING APPEAL

(By: Nakayama, J., for the court¹)

Upon review of the record, it appears that the circuit court's September 29, 2005 order denying appellant's motion for immediate graduation from the drug court program is an interlocutory order in Cr. Nos. 98-0749, 99-0255 and 00-1-0371 and FCCR No. 00-1-0967. The September 29, 2005 order was not certified for interlocutory appeal pursuant to HRS § 641-17 and the order is void as entered while jurisdiction over Cr. Nos. 98-0749, 99-0255 and 00-1-0371 and FCCR No. 00-1-0967 was with the appellate court in No. 26027. See State v. Ortiz, 91 Hawai'i 181, 197, 981 P.2d 1127, 1143 (1999) ("Appellate jurisdiction in Hawai'i does not terminate until the appellate court files its judgment on appeal."). Therefore,

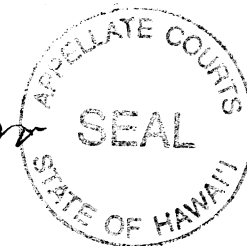
IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, June 28, 2006.

FOR THE COURT:

Huma A. Nakayama

Associate Justice



¹Considered by: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.