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SCMF-20-0000152

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the Judiciary’s Response
to the COVID-19 Outbreak

ORDER REGARDING TEMPORARY EXTENSION OF THE TIME REQUIREMENTS
UNDER HAWAI‘I RULES OF PENAL PROCEDURE RULE 10(a), (b), and (c)
(CIRCUIT COURT OF THE THIRD CIRCUIT)

(By: Recktenwald, C.J., Nakayama, McKenna, and Eddins, JJ.,
with Wilson, J., dissenting¹)

The COVID-19 pandemic has caused a public health emergency. In response to the pandemic, the Judiciary postponed non-urgent court business and limited in-person proceedings in an effort to ensure the health and safety of court users and Judiciary personnel, and minimize the risk of spreading COVID-19 in the courts. As COVID-19 cases remained low, court operations resumed in accordance with public health safety guidance, and to the extent possible with available resources. Criminal proceedings have proceeded in-person and by video conference in accordance with court rules and as feasible.

Within the last week, late May 2021, there has been an uptick of COVID-19 positive cases being reported at the Hawai‘i

¹ See Dissent Re: Order Regarding Temporary Extension of the Time Requirements Under Hawai‘i Rules of Penal Procedure Rule 10(a), (b), and (c) (Circuit Court of the Third Circuit), filed concurrently with this order.

Community Correctional Center ("HCCC"). As of May 29, 2021, there were seventy-one inmates and one staff member with active positive COVID-19 cases at HCCC. As a result, HCCC is in lockdown, and it has been brought to our attention that no transport or remote hearings are occurring at this time, thus affecting the time requirements for arraignments under Hawai'i Rules of Penal Procedure ("HRPP") Rule 10.²

In light of these recent developments and the extraordinary and unprecedented health and safety issues that continue to impact our community, including court proceedings, and the continued need to protect the health and safety of court users and Judiciary personnel during this unprecedented time, a temporary extension of the time requirements set forth under HRPP Rule 10(a), 10(b) and 10(c) for third circuit criminal matters is necessary.

Accordingly, pursuant to article VI, section 7 of the Hawai'i Constitution, Hawai'i Revised Statutes §§ 601-1.5 and

² HRPP Rule 10 provides the following time requirements for the arraignment of a defendant:

(a) A defendant who has been held by district court to answer in circuit court shall be arraigned in circuit court within 14 days after the district court's oral order of commitment following (i) arraignment and plea, where the defendant elected jury trial or did not waive the right to jury trial or (ii) initial appearance or preliminary hearing, whichever occurs last.

(b) Following service of grand jury warrant, a defendant arrested in the jurisdiction or returned to the jurisdiction shall be arraigned not later than 7 days following the arrest or return.

(c) Following service of an information charging warrant of arrest, a defendant arrested in the jurisdiction or returned to the jurisdiction shall be arraigned not later than 7 days following arrest or return.

602-5(a)(6), and Governor David Y. Ige's Emergency Proclamations,

IT IS HEREBY ORDERED that the Circuit Court of the Third Circuit may temporarily extend the time requirements for arraignments, as set forth under HRPP Rule 10(a), 10(b), and 10(c), no longer than reasonably necessary to protect public health and safety. Judges are encouraged to utilize remote technology whenever possible.

This order is effective as of the date of filing and shall expire on July 31, 2021, unless otherwise modified or extended.

Dated: Honolulu, Hawai'i, June 1, 2021.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Todd W. Eddins

