

NO. 23608

IN THE SUPREME COURT OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee

vs.

CRANDALL PENAFLOR, Defendant-Appellant

APPEAL FROM THE SECOND CIRCUIT COURT
(CR. NO. 90-0146(2))

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, and Ramil, JJ.,
and Circuit Judge Pollack, in place of Acoba, J., recused)

Upon review of the record, it appears that: (1) the February 28, 2000 motion for correction of sentence under HRPP Rule 35 has not been finally decided; (2) the appeal of the July 7, 2000 order denying appointment of substitute counsel in the Rule 35 matter is an appeal of an interlocutory order for which leave to file an interlocutory appeal was not granted by the circuit court; and thus, (3) we lack jurisdiction over this appeal. Therefore,

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

DATED: Honolulu, Hawaii, October 23, 2000.