

NO. 24656

IN THE SUPREME COURT OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee,

vs.

AHSAN ALIZAI, Defendant-Appellant.

APPEAL FROM THE FIRST CIRCUIT COURT
(CR. NO. 01-1-0029)

ORDER

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

Upon consideration of Defendant-Appellant Ahsan Alizai's motion to dismiss the appeal, the papers in support, and the records and files herein, it appears that: (1) Appellant, proceeding pro se, filed a notice of appeal on October 30, 2001 from an order denying a motion to dismiss and an order denying a motion for reconsideration; (2) HRS § 641-11 governs appeals in criminal cases and provides that an appeal in a criminal case may be taken from the judgment of the circuit court and that the sentence of the court in a criminal case shall be the judgment; (3) An order denying a motion to dismiss is not a final judgment and is not appealable. State v. Johnston, 63 Haw. 9, 619 P.2d 1076 (1980); (4) Appellant has not been sentenced in this case; there is no judgment, and the circuit court did not grant Appellant leave to take an interlocutory appeal pursuant to HRS § 641-17; and (5) The notice of appeal is premature; thus, this court lacks jurisdiction. Therefore,

IT IS HEREBY ORDERED that the motion to dismiss appeal is granted, and this appeal is dismissed. The dismissal is without prejudice to Appellant filing a new notice of appeal after the circuit court sentences Appellant.

DATED: Honolulu, Hawai'i, January 22, 2002.