

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 25645

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

---

STATE OF HAWAI'I, Plaintiff-Appellee,

vs.

ERIC EMERSON, CLAYRE SHIMABUKURO, HERNANDO TAN,  
Defendants-Appellants.

---

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
(HPD. NO. 02274918)

ORDER GRANTING STATE'S MOTION TO DISMISS APPEAL

(By: Moon, C.J., Levinson and Nakayama, JJ., and Intermediate Court of Appeals Judge Lim, in place of Acoba, J., unavailable, and Circuit Judge Ahn, assigned by reason of vacancy.)

Upon consideration of appellee's motion to dismiss appeal for lack of jurisdiction, the papers in support and the record, it appears that appellants seek review of the October 25, 2002 jury trial denial by appealing from the February 4, 2003 decision granting them deferred acceptances of their no contest pleas and deferring plea acceptances for thirty-day periods that have been stayed. The February 4, 2003 decision is not final for the purpose of taking an appeal and it does not provide a jurisdictional basis for reviewing the jury trial denial purportedly preserved by conditional pleas under HRPP 11(a)(2). See State v. Kealaiki, 95 Hawai'i 309, 22 P.3d 588 (2001). Accordingly,

**\*\*\* NOT FOR PUBLICATION \*\*\***

IT IS HEREBY ORDERED that the motion to dismiss appeal is granted and this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, April 25, 2003.

Alexa Fujise  
for plaintiff-appellee  
on the motion