

NOT FOR PUBLICATION

NO. 25076

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
SCOTT A. BAILEY, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(Cr. No. 01-1-1213)

ORDER OF DISMISSAL

(By: Burns, C.J., Watanabe, and Foley, JJ.)

Upon consideration of the "Motion for an Order Dismissing the Appeal as Moot, Vacating the Original Judgment of Conviction, and Dismissing All Related Criminal Proceedings Against [Defendant-Appellant] Scott A. Bailey [(Mr. Bailey)]" filed on October 28, 2003 by counsel for Mr. Bailey, the papers in support, and the records and files herein, it appears that Mr. Bailey died on April 19, 2003 and his mother and personal representative, Marlias Bailey, does not wish to pursue this appeal. Therefore,

IT IS HEREBY ORDERED that, pursuant to State v. Makaila, 79 Hawai'i 40, 45, 897 P.2d 967, 972 (1995), this appeal is dismissed as moot, the underlying judgment of conviction is vacated, and all related criminal proceedings are dismissed.

DATED: Honolulu, Hawai'i, October 30, 2003.

Brian A. Costa on
the motion.

Chief Judge

Associate Judge

Associate Judge