

NO. 28740

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee,

v.

RANDALL L. CRUZ, Defendant-Appellant.

KIMIKAWA
CLERK OF THE COURTS

2007 DEC 28 AM 8:27

FILED

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CR. NO. 05-1-0171K (KONA))

ORDER

(By: Watanabe, Presiding J., Nakamura and Fujise, JJ.)

Upon consideration of Defendant-Appellant Randall Cruz's (Appellant) Motion for Dismissal of Appeal, the papers in support, and the records and files herein, it appears: (1) Appellant filed his notice of appeal on September 10, 2007; (2) in the declaration in support of the motion to dismiss his appeal, Appellant states: (a) he discussed the matter with his attorney; (b) he wants to dismiss his appeal; (c) he understands dismissal of the appeal means he will no longer have the right to pursue reversal of the conviction and sentence and the sentence will not be reversed; and (d) he understands he cannot refile the appeal after dismissal; (3) pursuant to HRAP Rule 42(c), in a criminal appeal by a defendant, the motion for dismissal of the appeal shall be supported by the defendant's affidavit or declaration that reflects a knowing and intelligent understanding

of the consequences of the dismissal of the appeal and that the withdrawal is made voluntarily; and (4) Appellant's declaration satisfies the requirements of HRAP Rule 42(c). Therefore,

IT IS HEREBY ORDERED that Defendant-Appellant Randall Cruz's Motion for Dismissal of Appeal is granted, and this appeal is dismissed.

DATED: Honolulu, Hawai'i, December 28, 2007.

Bernie K. Watanabe

Presiding Judge

Craig M. Nakamura

Judge

Alan H. O. Fujita

Judge