

NO. 28905

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

STATE OF HAWAI'I, Plaintiff-Appellee,  
v.

ROBIN B. CANTIBEROS, Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT  
(CASE NO. DTA-07-01874, C07018895 (KONA))

ORDER

(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon consideration of the Motion to Reconsider Order Denying Second Motion for Remand for Hearing on Motion for Withdrawal and Substitution of Counsel filed by the Office of the Public Defender (PD's Office), appellate counsel for Defendant-Appellant Robin B. Cantiberos (Appellant), the papers in support, and the records and files herein, it appears that: (1) Appellant is appealing from a November 15, 2007 judgment of conviction entered by the District Court of the Third Circuit - Kona Division (district court); (2) although the PD's Office represented Appellant in the underlying case, the district court did not require the PD's Office to file Appellants's motion to dismiss for the case based on Appellant's alleged status as a native Hawaiian; (3) Appellant filed that motion pro se; (4) in this motion for reconsideration, the PD's Office indicates the only issues Appellant wants to raise on appeal are related to Appellant's status as a native Hawaiian; and (5) the PD's Office explains that the district court seemed to state at the April 21, 2008 hearing on the first motion for withdrawal and substitution of counsel that the court would approve withdrawal if there were no other issues Appellant wanted to raise on appeal. Therefore,

E.M. NIMANUDO  
CLERK, APPELLATE COURTS  
STATE OF HAWAI'I

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FILED

IT IS HEREBY ORDERED that:

1. The Motion to Reconsider the Order Denying Second Motion for Withdrawal and Substitution of Counsel is granted, and this case is remanded temporarily to the district court for a hearing on a second motion for withdrawal and substitution of counsel. The clerk of the appellate court shall transmit the record to the clerk of the district court forthwith.

2. Within ten days from the date of this order, the PD's Office shall file in the district court a second Motion for Withdrawal and Substitution of Counsel that fully explains the position of the PD's Office on this matter.

3. Within 30 days thereafter, the district court shall conduct a hearing and enter a written order either granting or denying the Motion for Withdrawal and Substitution, and if the motion is granted and substitute counsel is appointed, an order appointing new counsel.

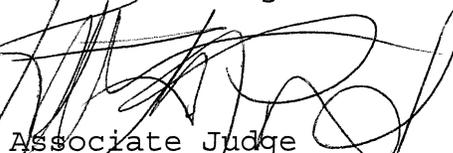
4. Within five days after the district court enters its order(s) on remand, the clerk of the district court shall retransmit the record, including a supplemental record containing all documents entered on remand, to the clerk of the appellate court.

IT IS FURTHER ORDERED that the motion for extension of time to file the opening brief is granted, and the time to file the opening brief is extended to October 1, 2008.

DATED: Honolulu, Hawai'i, July 10, 2008.

  
Daniel R. Foley  
Presiding Judge

  
Associate Judge

  
Associate Judge