

NO. 29183

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

STATE OF HAWAI'I,
Plaintiff-Appellant/Cross-Appellee,

v.

JOHN SIUFANUA,
Defendant-Appellee/Cross-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 07-1-1100)

ORDER DISMISSING APPEAL
FOR LACK OF APPELLATE JURISDICTION
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon review of the record, it appears that judgment has not been entered in Cr. No. 07-1-1100. The appeal by Defendant-Appellee/Cross-Appellant John Siufanua (Siufanua) from the May 2, 2008 order denying his motion for judgment of acquittal and granting his motion for new trial is an appeal of an interlocutory order. The May 2, 2008 order was not certified for appeal pursuant to HRS § 641-17 (Supp. 2007) and is not immediately appealable by Siufanua as an appellant or a cross-appellant. See HRS § 641-11 (Supp. 2007); Grattafiori v. State, 79 Hawai'i 10, 13, 897 P.2d 937, 940 (1995) ("The right of appeal in a criminal case is purely statutory and exists only when given by some constitutional or statutory provision."); HRAP 4.1(a)(3) ("the defendant may file a cross-appeal ... if the appeal is otherwise allowed by law."). Thus, we lack jurisdiction as to Siufanua's cross-appeal.

EM RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

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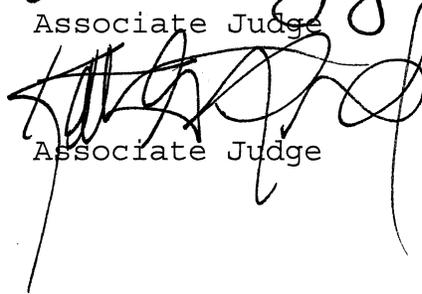
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Therefore, IT IS HEREBY ORDERED that the cross-appeal by Siufanua is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, November 18, 2008.


Presiding Judge


Associate Judge


Associate Judge