

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 29258

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee,

v.

DENNIS BROOKS, Defendant-Appellant.

K. HAMAKADO  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

2008 OCT 29 PM 1:59

FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(CR. NO. 06-1-1104)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that, we lack jurisdiction over Defendant-Appellant Dennis Brooks's (Appellant Brooks) appeal from a jury's June 3, 2008 guilty verdict against Appellant Brooks for robbery in the first degree in violation of HRS § 708-840 (Supp. 2005), kidnapping in violation of HRS § 707-720 (1993) and unauthorized control of a propelled vehicle in violation of HRS § 708-836 (Supp. 2005), because the circuit court, the Honorable Steven S. Alm presiding, has not yet entered a judgment of conviction against Appellant Brooks that includes a sentence.

Under Hawaii Revised Statutes (HRS) § 641-11 (Supp. 2007), "[a]ny party deeming oneself aggrieved by the judgment of a circuit court in a criminal matter, may appeal to the intermediate appellate court, subject to chapter 602 in the manner and within the time provided by the rules of the court." However, "[t]he sentence of the court in a criminal case shall be the judgment." HRS § 641-11 (Supp. 2006). Under similar circumstances, where a circuit court's "judgment of conviction does not include any sentence[,]" the supreme court has held that "the judgment entered in this case is not a final judgment conferring appellate jurisdiction on this court[,]" State v. Ferreira, 54 Haw. 485, 487, 510 P.2d 88, 89 (1973), and the supreme court ruled that the "[a]ppeal is dismissed." Id. at 488, 510 P.2d at 89.

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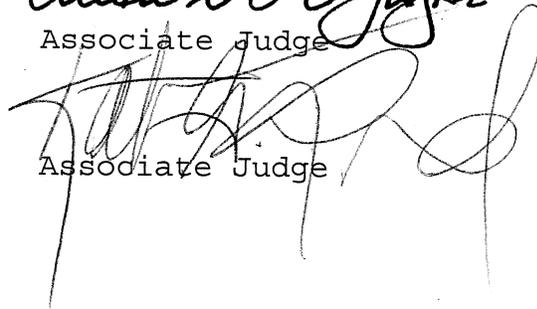
Similarly in the instant case, although the jury found Appellant Brooks guilty of several crimes, the circuit court has not yet sentenced Appellant Brooks. Absent a judgment of conviction with a sentence, we lack jurisdiction over this appeal. Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of jurisdiction.

DATED: Honolulu, Hawai'i, October 29, 2008.

  
Presiding Judge

  
Associate Judge

  
Associate Judge