

NO. 29613

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.  
VICTORIA LEE DENIS-SILVA, Defendant-Appellant

NORMA T. YARA  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

2009 MAY 15 PM 2:39

FILED

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT  
(CR. NO. 08-1-0133K)

ORDER DISMISSING APPEAL  
FOR LACK OF APPELLATE JURISDICTION  
(By: Watanabe, Acting Chief Judge, Foley and Fujise, JJ.)

Upon review of the record for this case, it appears that we lack jurisdiction over the appeal that Defendant-Appellant Victory Lee Denis-Silva (Appellant Denis-Silva) asserted from the Honorable Elizabeth A. Stance's December 31, 2008 "Order Granting State's Motion to Dismiss without Prejudice" (the December 31, 2008 dismissal order, because no statute within the Hawaii Revised Statutes (HRS) authorizes Appellant Denis-Silva to assert an appeal from the December 31, 2008 dismissal order.

"The right of appeal in a criminal case is purely statutory and exists only when given by some constitutional or statutory provision." State v. Poohina, 97 Hawai'i 505, 509, 40 P.3d 907, 911 (2002) (citation and internal quotation marks omitted). "In a circuit court criminal case, a defendant may appeal from the judgment of the circuit court, see HRS § 641-11 (1993), from a certified interlocutory order, see HRS § 641-17 (1993), or from an interlocutory order denying a motion to dismiss based on double jeopardy." State v. Kealaiki, 95 Hawai'i 309, 312, 22 P.3d 588, 591 (2001) (citation omitted). The December 31, 2008 dismissal order does not belong to any of these three categories of statutorily authorized appeals for a criminal defendant.

Absent a statute authorizing an appeal from the December 31, 2008 dismissal order, we lack jurisdiction over Appellant Denis-Silva's appeal. Accordingly,

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

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

DATED: Honolulu, Hawai'i, May 15, 2009.

*Cornine K. A. Watanabe*  
Acting Chief Judge

*Daniel R. Foley*  
Associate Judge

*Alewa D. N. Griffin*  
Associate Judge