

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 29886

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.  
MICKEY ANTHONY MADDOX, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT  
(CR. NO. 07-1-0139)

2009 AUG 25 AM 9:04  
JENNIFER K. KAMATA  
CLERK OF APPELLATE COURT  
STATE OF HAWAII

FILED

ORDER DISMISSING APPEAL  
FOR LACK OF APPELLATE JURISDICTION

(By: Watanabe, Acting Chief Judge, Foley and Nakamura, JJ.)

Upon review of the record for this case, it appears that we lack jurisdiction over Defendant-Appellant Mickey Anthony Maddox's (Appellant Maddox) appeal from the Honorable Joseph Edward Cardoza's oral May 15, 2009 announcement dismissing without prejudice Plaintiff-Appellee State of Hawaii's (Appellee State) indictment against Appellant Maddox for attempted escape in the second degree in violation of HRS § 710-1021 (1993) and HRS § 705-500 (1993) and promoting prison contraband in the first degree in violation of HRS § 710-1022 (1993), because the circuit court did not enter a judgment of conviction with a sentence against Appellant Maddox.

Pursuant to Hawaii Revised Statutes (HRS) § 641-11 (Supp. 2008), "[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." HRS § 641-11 (Supp. 2008). Under HRS § 641-11 (Supp. 2008), "[t]he sentence of the court in a criminal case shall be the judgment." HRS § 641-11 (Supp. 2008). For reasons that are not clear, the circuit court has not yet entered a written order of dismissal without prejudice. However, more significantly for the purpose of appellate review, the entry of a written order of dismissal would not constitute an appealable judgment because the circuit court has not entered any sentence against Appellant

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Maddox. Thus, HRS § 641-11 (Supp. 2008) does not authorize Appellant Maddox's appeal. State v. Johnston, 63 Haw. 9, 11, 619 P.2d 1076, 1077 (1980). Absent an appealable judgment, we lack jurisdiction over Appellant Maddox's appeal. Accordingly,

IT IS HEREBY ORDERED that appellate court case number 29886 is dismissed for lack of jurisdiction.

DATED: Honolulu, Hawai'i, August 25, 2009.



Acting Chief Judge



Associate Judge



Associate Judge