

* * * NOT FOR PUBLICATION * * *

NO. 27752

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee

vs.

JASON M. LAKMAN, Defendant-Appellant

APPEAL FROM THE SECOND CIRCUIT COURT
(CR. NO. 05-1-0329)NONIMA T. YARRA
CLERK, APPELLATE COURTS
STATE OF HAWAII

2006 APR 26 PM 3:16

FILED

ORDER DISMISSING APPEAL(By: Duffy, J. for the court¹)

Upon consideration of appellant's motion to dismiss appeal for lack of jurisdiction, the papers in support and the record, it appears that the sentence imposed by the circuit court in the January 4, 2006 judgment was not the final sentence inasmuch as it left open the possibility that it may include payment of restitution, which matter has yet to be determined. Consequently, the January 4, 2006 judgment is not an appealable final judgment and we lack jurisdiction. See HRS § 641-11; State v. Kilborn, 109 Hawai'i 435, 127 P.3d 95 (App. 2005). Therefore,

IT IS HEREBY ORDERED that the motion to dismiss appeal is granted and this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, April 26, 2006.

James S. Tabe,
Deputy Public Defender,
for defendant-appellant
on the motion

FOR THE COURT:

James S. Duffy, Jr.

Associate Justice



¹Considered by: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.