

NO. CAAP-17-0000713

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

STATE OF HAWAI'I, Plaintiff-Appellant,
v.
KENNY K. LUKELA, Defendant-Appellee,
and
JAMES SCOTT WEI, dba J & J BAIL BONDS,
Third-Party-in-Interest-Appellee.

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(CASE NO. 1DTC-16-038603)

ORDER DISMISSING APPEAL FOR LACK OF JURISDICTION
(By: Ginoza, Chief Judge, Leonard and Reifurth, JJ.)

Upon review of the record, it appears that we lack jurisdiction over the appeal that Plaintiff-Appellant State of Hawai'i (**State**) asserts from an "Order Setting Aside September 7, 2016 Judgment and Order of Forfeiture of Bail Bond," filed on September 15, 2017, in the District Court of the First Circuit, Kāne'ohe Division.

"The right to an appeal is strictly statutory." State v. Ontiveros, 82 Hawai'i 446, 449, 923 P.2d 388, 391 (1996) (citation omitted). The State brings the appeal pursuant to, among other authorities, Hawaii Revised Statutes (**HRS**) § 641-1, which provides, in relevant part, that "[a]ppeals shall be allowed in civil matters from all final judgments, orders, or decrees of . . . district [court] . . . to the intermediate appellate court, subject to chapter 602." HRS § 602-57(1)

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provides in relevant part, "Notwithstanding any other law to the contrary, the intermediate appellate court shall have jurisdiction . . . [t]o hear and determine appeals from any court or agency when appeals are allowed by law[.]"

HRS § 804-51 (2014), which "controls in situations where a judgment of forfeiture has been entered," State v. Vaimili, 131 Hawai'i 9, 17, 313 P.3d 698, 706 (2013), does not provide for an appeal by the State from an order granting a motion to set aside a bail forfeiture judgment. No other law appears to authorize the appeal.

Absent a statute authorizing the appeal, we lack jurisdiction over the appeal.

Therefore, IT IS HEREBY ORDERED that the appeal in Case No. CAAP-17-0000713 is dismissed.

DATED: Honolulu, Hawai'i, June 4, 2018.

Chief Judge

Presiding Judge

Presiding Judge