

**Electronically Filed
Supreme Court
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SCWC-16-0000460
IN THE SUPREME COURT STATE OF HAWAII

STATE OF HAWAII,) Case No.: 3DTA-15-00745
)
Plaintiff-Appellee,) MOTION TO SET ASIDE NOTICE OF
) SETTING FOR ORAL ARGUMENT
vs.) AND/OR MOTION)FOR
) CLARIFICATION
CYRINA HEWITT,)
)
Defendant-Appellant.) HONORABLE LISA GINOZA, Chief
) Judge; and
) HONORABLE KATHERINE G.
) LEONARD and
) HONORABLE KEITH K. HIRAOKA,
) Associate Judges
)
_____)

MOTION TO SET ASIDE NOTICE OF SETTING FOR ORAL ARGUMENT
AND/OR MOTION FOR CLARIFICATION
and
DECLARATION OF COUNSEL

OFFICE OF THE PUBLIC DEFENDER

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ATTORNEYS FOR DEFENDANT-APPELLANT-
PETITIONER

DECLARATION OF COUNSEL

1. The Office of the Public Defender is the court-appointed counsel for Defendant-Appellant-Petitioner CYRINA HEWITT.

2. On February 16, 2021, the Intermediate Court of Appeals (“ICA”) of the State of Hawaii issued its Opinion in CAAP-16-0000460, vacating the District Court of the Third Circuit’s Judgment and Notice of Entry of Judgment, entered on May 7, 2016.

3. The ICA filed the Judgment on Appeal on March 18, 2021.

4. Hewitt filed Application for Writ of Certiorari on May 19, 2021.

5. On July 2, 2021, this Court filed Order Accepting Application for Writ of Certiorari (“Order”).

6. On the same date, after the Court filed the Order, Deputy Prosecuting Attorney Charles E. Murray contacted Counsel and extended a plea offer to dismiss the instant case with prejudice if Ms. Hewitt dismisses the appeal.

7. On July 9, 2021, Counsel filed Motion for Temporary Remand to the District Court of the Third Circuit, Kona Division (“the Motion”) for purposes of accepting the plea offer.

8. On July 23, 2021, this Court filed Order granting the Motion, temporarily remanding the case for no more than 30 days. The Order further instructed that within 30 days of the Order, the clerk of the district court was to supplement the record on appeal with all document entered on temporary remand and “the case shall resume in the Supreme Court for such further proceedings as may be appropriate.”

9. On August 9, 2021, the district court granted the State’s Motion for Nolle Prosequi.

10. On August 16, 2021, the clerk of the district court filed the supplemental record on appeal which included the order granting the State’s motion.

11. On August 24, 2021, this Court filed the Notice of Setting for Oral Argument.

12. Based on the foregoing, Counsel requests that this Court set aside the Notice of Setting for Oral Argument and the oral argument in light of the dismissal of the

case. In the alternative, Counsel requests clarification to effectuate the dismissal of the case in the Hawaii Supreme Court.

I, TARYN R. TOMASA, declare under penalty of law that the foregoing is true and correct to the best of my knowledge, information and belief.

DATED: Honolulu, Hawaii, August 24, 2021.

/s/ Taryn R. Tomasa
TARYN R. TOMASA