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IN THE SUPREME COURT OF THE STATE OF HAWAIʻI

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In the Matter of the Judiciary's Response
to the COVID-19 Outbreak

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ORDER EXTENDING ORDER REGARDING
TEMPORARY EXTENSION OF THE TIME REQUIREMENTS UNDER
HAWAIʻI RULES OF PENAL PROCEDURE RULE 10(a), (b), and (c)
(By: Recktenwald, C.J., Nakayama, and McKenna, JJ.,
and Chief Judge Ginoza, assigned by reason of vacancy,
with Wilson, J., dissenting[1])

The COVID-19 pandemic has caused a public health emergency. In response to the pandemic, the Judiciary postponed non-urgent court business and limited in-person proceedings in an effort to ensure the health and safety of court users and Judiciary personnel, and to minimize the risk of spreading COVID-19 in the courts. As COVID-19 cases remained low, court operations resumed in accordance with public health safety guidance, and to the extent possible with available resources.

[1] A dissent by Wilson, J., is forthcoming.

Criminal proceedings have proceeded in-person and by video conference in accordance with court rules and as feasible.

Since July 2020, however, there was a surge of COVID-19 cases in Hawai‘i, with record numbers of positive cases and increased hospitalizations being reported. There was also a surge of COVID-19 cases in our community correctional centers and facilities, particularly at the O‘ahu Community Correctional Center ("OCCC"). As a result, additional time was required to be afforded for arraignments in order to give sufficient opportunity for those released from OCCC to self-isolate or quarantine for possible COVID-19 exposure as necessary and to ensure the health and safety of court users and personnel.

Thus, on August 18, 2020, this court entered the "Order Regarding Temporary Extension of the Time Requirements Under Hawai‘i Rules of Penal Procedure Rule 10(a), (b), and (c)," which provided that the first circuit may temporarily extend the time requirements for arraignments no longer than reasonably necessary to protect public health and safety, while encouraging judges to utilize remote technology whenever possible. The order expires on September 17, 2020.

Since the order was filed, the number of positive COVID-19 cases and hospitalizations statewide has remained high. The current public health emergency and the changing conditions require flexibility and vigilance. The continued need to

protect the health and safety of court users and Judiciary personnel during this unprecedented time remains vital, thus necessitating a further extension of the August 18, 2020 order.

Accordingly, pursuant to article VI, section 7 of the Hawai‘i Constitution and Hawai‘i Revised Statutes § 602-5(a)(6), Governor David Y. Ige's Emergency Proclamations, and HRS § 601-1.5,

IT IS HEREBY ORDERED that the August 18, 2020 "Order Regarding Temporary Extension of the Time Requirements Under Hawai‘i Rules of Penal Procedure Rule 10(a), (b), and (c)" for first circuit criminal matters is extended until October 16, 2020, unless otherwise further modified or extended.

Dated: Honolulu, Hawai‘i, September 11, 2020.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Lisa M. Ginoza