

INTERMEDIATE COURT OF APPEALS OF THE STATE OF HAWAI‘I

State of Hawai‘i v. Vihn Du Chau

Chau · No. CAAP-23-0000336 · Decided December 30, 2025

SUMMARY

The Intermediate Court of Appeals of Hawai‘i dismissed the State’s appeal from a judgment of acquittal entered in favor of Vihn Du Chau. The court distinguished State v. Markowski and held that the Family Court’s ruling was substantively an acquittal because it found that the State failed to prove an element of the charged offense. Because appellate review of the acquittal was unavailable, the appeal was dismissed.

CASE DETAILS

COURT	Intermediate Court of Appeals of the State of Hawai‘i
WRITING FOR THE COURT	Katherine G. Leonard, Presiding Judge; Keith K. Hiraoka, Associate Judge; Clyde J. Wadsworth, Associate Judge
JURISDICTION	Intermediate Court of Appeals of the State of Hawai‘i
DECIDED	December 30, 2025
DOCKET	CAAP-23-0000336
DISPOSITION	dismissed
PROCEDURAL POSTURE	The State appealed from the Family Court of the Second Circuit’s April 11, 2023 Judgment of Acquittal, arguing that the ruling was effectively a dismissal rather than an acquittal and therefore appealable.
PRECEDENTIAL VALUE	Unpublished and not for publication in the West’s Hawai‘i Reports and Pacific Reporter
PARTIES	State of Hawai‘i v. Vihn Du Chau, also known as Vihn Chau, also known as Eric Chau

TOPICS

- appellate jurisdiction
- appellate procedure
- criminal procedure
- final judgment rule

PRACTICE AREAS

- criminal appellate procedure
- criminal procedure

QUESTIONS PRESENTED

1. Whether the Family Court's judgment of acquittal was actually a dismissal based on defective charges, such that the State could appeal under Hawaii Revised Statutes § 641-13(1).
2. Whether the State may obtain appellate review of a judgment of acquittal grounded in the trial court's factual determination that the prosecution failed to prove an element of the charged offense.

HOLDINGS

1. The judgment was an acquittal in substance, not merely in form, because the Family Court based it on the State's failure to prove an element of the charge; therefore, the State could not appeal the ruling on the issue raised.

KEY QUOTATIONS

“Chau was acquitted because the Family Court concluded that the State did not establish all of the elements of the charge.” (at 2)

“Accordingly, appellate review is not available to the State on the issue raised in this case.” (at 2)

FACTUAL BACKGROUND

Chau was prosecuted in Family Court, and the State presented its case in chief. The defense argued that notice was an element of the charge and that the State had failed to prove that element. The Family Court entered a judgment of acquittal, expressly finding that the element had not been established to the court's satisfaction.

PROCEDURAL HISTORY

The Family Court entered a judgment of acquittal in favor of Chau after concluding that the State had failed to establish an element of the charged offense. The State appealed, relying on the exception recognized in *State v. Markowski* for review of a nominal acquittal that was actually based on defective charges. The Intermediate Court of Appeals distinguished *Markowski* and dismissed the State's appeal.

DISPOSITION

dismissed

CASES CITED

- *State v. Markowski*, 88 Hawai‘i 477, 481-83, 967 P.2d 674, 678-80 (App. 1998)