

NO. 29929

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

MICHAEL P. FLINCHBAUGH, Plaintiff-Appellee, v.
JOHN R. CATES, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 05-1-1022)

ORDER DENYING DEFENDANT-APPELLANT'S MOTION FOR RECONSIDERATION
(By: Nakamura, C.J., Foley and Leonard, JJ.)

Upon review of (1) January 7, 2010 order dismissing appellate court case number 29929 for lack of jurisdiction, (2) Defendant-Appellant John R. Cates's (Appellant Cates) January 19, 2010 motion to reconsider the January 7, 2010 dismissal order pursuant to Rule 40 of the Hawai'i Rules of Appellate Procedure (HRAP), and (3) the record, it appears that we did not overlook or misapprehend any points of law or fact when we entered the January 7, 2010 dismissal order, and, thus, Appellant Cates's January 19, 2010 HRAP Rule 40 motion for reconsideration lacks merit. Therefore,

IT IS HEREBY ORDERED that Appellant Cates's January 19, 2010 HRAP Rule 40 motion for reconsideration of the January 7, 2010 dismissal order is denied.

DATED: Honolulu, Hawai'i, January 28, 2010.

Chief Judge

Associate Judge

Associate Judge