

NO. CAAP-13-0001305

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

VALERIE STEPHEN, Complainant-Appellant,
v.
HAWAII HEALTH SYSTEMS, CORP., Respondent-Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 11-1-3067-12)

ORDER DISMISSING THE APPEAL

(By: Foley, Presiding Judge, Leonard and Ginoza, JJ.)

Upon review of the record, it appears that:

(1) On September 10, 2014, Employer-Appellee Hawaii Health Systems Corp. (HHSC) filed a Suggestion of Death, pursuant to Hawai'i Rules of Appellate Procedure (HRAP) Rule 43(a), suggesting the death of Appellant Valerie Stephen (Stephen) during the pendency of this action and that the appeal should be dismissed;

(2) There having been no response to the Suggestion of Death from Stephen's counsel, the court entered an order on October 15, 2014, requiring *inter alia* that Stephen's counsel, within 20 days, advise the court as to whether counsel or any other person intended to file a motion requesting that a personal representative be substituted as a party, or whether counsel agreed that the appeal should be dismissed;

(3) On November 19, 2014, due to the lack of response from Stephen's counsel, the court entered another order directing counsel to respond within 10 days; and

(4) On November 28, 2014, Stephen's counsel responded to the second order and notified the court that attempts to contact Stephen's children have been unsuccessful, that counsel has not been informed as to any other person who may have been designated as a representative of the Estate of Valerie Stephen, that "it is determined that further pursuit of this appeal will be futile," and that counsel would not be filing a motion to substitute a representative for Stephen.

Therefore, based on the foregoing and the record in this case,

It IS HEREBY ORDERED that this appeal is dismissed.

DATED: Honolulu, Hawai'i, December 5, 2014.

Presiding Judge

Associate Judge

Associate Judge