

NO. CAAP-13-0006089

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

UNITED PUBLIC WORKERS, AFSCME LOCAL 646, AFL-CIO,
Plaintiff-Appellant,
v.
HAWAII LABOR RELATIONS BOARD, et al., Defendants-Appellees
APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 13-1-2136)

(1) ORDER DISMISSING THE APPEAL
PURSUANT TO HRAP RULES 3.1(a) AND 30, AND HAMP RULE 4(a)
(2) ORDER DENYING AS UNNECESSARY THE
MARCH 20, 2014 MOTION TO DISMISS APPEAL; AND
(3) ORDER FOR SANCTION

(By: Nakamura, Chief Judge, Leonard and Reifurth, JJ.)

Upon review of the record and the motion to dismiss appeal (Motion to Dismiss) on grounds of mootness filed on March 20, 2014 by Defendants-Appellees Hawai'i Labor Relations Board, Rock B. Ley, Sensnita A. D. Moepono (Appellees), it appears as follows:

(1) On December 16, 2013, Plaintiff-Appellant United Public Workers, AFSCME Local 646, AFL-CIO (Appellant) filed a notice of appeal through Counsel Charles K. Y. Khim; however, Appellant did not file a Civil Appeal Docketing Statement (CADS) at the same time as filing of the notice of appeal as was required under Rule 3.1(a) of the Hawai'i Rules of Appellate Procedure and Rule 4(a) of the Hawai'i Appellate Mediation Program Rules;

(2) On December 26, 2013, the appellate clerk informed Appellant, through Counsel Charles K. Y. Khim: that the CADS was not filed with the notice of appeal but that by January 5, 2014, the CADS may be filed or a letter as to the non-requirement of a CADS may be transmitted to the appellate clerk; and that if the CADS is not filed as stated, the court may impose sanctions, including monetary sanctions and dismissal of the appeal;

(3) The record on appeal was filed on January 28, 2014, and the appellate clerk informed Appellant that the statement of jurisdiction was due February 7, 2014 and the opening brief was due March 10, 2014;

(4) On February 5, 2014, this court issued an order that required that Appellant file the CADS by February 12, 2014, and that Counsel Charles K. Y. Khim show cause by February 18, 2014 as to why he should not be sanctioned for failing to file the CADS;

(5) Appellant did not file the CADS, the statement of jurisdiction, or the opening brief, and Counsel Charles K. Y. Khim did not respond to the February 5, 2014 order to show cause; and

(6) On March 18, 2014, the appellate clerk informed Appellant that:

(a) the time for filing the statement of jurisdiction and the opening brief expired;

(b) pursuant to Rule 30 of the Hawai'i Rules of Appellate Procedure, the matter would be called to the attention of the court on March 28, 2014 for such action as the court deems proper; and

(c) the appeal may be dismissed; and

(7) thereafter, Appellant did not file the statement of jurisdiction and opening brief or respond to the notice of default. Therefore,

IT IS HEREBY ORDERED as follows.

1. Counsel Charles K. Y. Khim is sanctioned in the sum of \$50.00. A check in the amount of said sum, payable to the State Director of Finance, shall be deposited with the Supreme Court Clerk's Office within 10 days from the date of this order, with a copy of this order attached to said check. An affidavit of counsel attesting to said payment shall be filed with this court within ten (10) days after entry of this order. Failure to comply with this order may result in additional sanctions, including referral to the Office of Disciplinary Counsel.

2. The appellate clerk shall electronically serve and additionally shall mail a copy of this order to Charles K. Y. Khim.

3. The appeal is dismissed for failure to file the civil appeals docketing statement, the statement of jurisdiction, and the opening brief.

4. The Motion to Dismiss on mootness grounds is denied as unnecessary.

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

Chief Judge

Associate Judge

Associate Judge