

NO. CAAP-14-0000893

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee, v.
JERALD BALGUNA, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 11-1-0489)

ORDER

(1) GRANTING MOTION FOR DISMISSAL OF APPEAL;
(2) DENIED AS MOOT THE NOVEMBER 14, 2014 RESPONSE TO
OCTOBER 30, 2014 ORDER OF COURT; AND
(3) ORDER TO SHOW CAUSE

(By: Nakamura, C.J., Fujise and Reifurth, JJ.)

Upon consideration of the November 11, 2014 "Stipulated Motion for Dismissal of Appeal," which the court construes as a motion to dismiss the appeal, and the November 14, 2014 "Response to October 30, 2014 Order of Court," which the court construes as a motion for extension of time to file the opening brief should the court deny the motion to dismiss the appeal, both filed by Defendant-Appellant Jerald Balguna (**Appellant**), through counsel Lars Robert Isaacson (**Counsel**), the papers in support, and the record, it appears that:

(1) On September 26, 2014, Appellant, through Counsel, filed a motion for extension of time to file the opening brief, from September 26 to October 27, 2014. Appellant failed to explain why the extension was needed.

(2) On October 1, 2014, this court granted the September 26, 2014 extension request, cautioning Counsel to explain in extension requests why extensions are needed, in compliance with Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 26(b) .

(3) On October 27, 2014, Appellant filed a second motion for extension of time to file the opening brief without any justification for the extension by Counsel.

(4) On October 30, 2014, this court denied the October 27, 2014 extension request, without prejudice to Appellant filing within three days of the order an opening brief or a motion for extension of time that complied with HRAP Rules 26(b) and 29(b) and showed good cause for the extension.

(5) Thereafter, Appellant failed to file an opening brief or extension request, explaining in the declaration accompanying the instant motion that he did so because he was waiting until resentencing on November 10, 2014, to see if the Circuit Court would reinstate Appellant's deferral status and, thus, render the appeal moot.

(6) Appellant moves to dismiss the appeal. In the alternative, he moves for an extension of time to file the opening brief. Therefore,

IT IS HEREBY ORDERED that:

(1) The motion to dismiss the appeal is granted, and the appeal in No. CAAP-14-0000893 is dismissed.

(2) The November 14, 2014 "Response to October 30, 2014 Order of Court" is denied as moot.

(3) Lars Robert Isaacson is ordered within five days to show cause (if any, beyond that already stated in Counsel's declaration in support of the instant motion) for his failure to comply with the October 30, 2014 order to file within three days of the order an opening brief or a motion for extension of time

that complies with HRAP Rules 26(b) and 29(b). Failure to comply with this order or show good cause may result in sanctions.

DATED: Honolulu, Hawai'i, November 26, 2014.

Chief Judge

Associate Judge

Associate Judge