

NO. 30406

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

DORIAN DOUGLAS WHALEY, Petitioner-Appellant, v.
FABIANO VILLAREALE, Respondent-Appellee

APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT
(CASE NO. DC-TRO-10-1-0055)

ORDER DISMISSING APPEAL PURSUANT TO HRAP RULE 11(c)(2)
(By: Fujise, Presiding Judge, Leonard and Ginoza, JJ.)

Upon review of the record, it appears that: (1) on March 29, 2010, Defendant-Appellant Dorian Douglas Whaley (Appellant) filed a notice of appeal, but he did not pay the filing fee; (2) the District Court of the Second Circuit denied a motion to waive the filing fee; (3) on June 21, 2010, the appellate clerk informed Appellant that the record could not be filed without payment of the filing fee or an order allowing Appellant to proceed in forma pauperis; (4) the appellate clerk further informed Appellant that the matter would be called to the attention of the court on June 28, 2010 for such action as the court deemed proper pursuant to Hawai'i Rules of Appellate Procedure Rule 11(c)(2), including dismissal of the appeal; and (5) thereafter, Appellant did not pay the filing fee or submit a motion to this court to proceed in forma pauperis. Therefore,

IT IS HEREBY ORDERED that the appeal is dismissed.

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

Presiding Judge

Associate Judge

Associate Judge