

NO. CAAP-17-0000864

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

STATE OF HAWAI'I, Plaintiff-Appellee,
v.
JOHN APELE KALUAU, Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT
(CASE NO. 3DTA-17-02844)

ORDER DISMISSING APPEAL

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

Upon review of the record here and in State v. Kaluau, No. 3DTA-17-02844, it appears that:

(1) On December 5, 2017, Defendant-Appellant John Apele Kaluau (Kaluau), pro se, filed the notice of appeal, which created appeal number CAAP-17-000864;

(2) Kaluau failed to pay the appellate filing and docketing fees with the notice of appeal, as required by Hawai'i Rules of Appellate Procedure (HRAP) Rule 3(a);

(3) On December 6, 2017, the district court clerk notified Kaluau to pay the filing fee or request a fee waiver by December 15, 2017, or the appeal could be dismissed;

(4) On May 2, 2018, the appellate clerk entered a default of the record on appeal, informing Kaluau that the time to docket the appeal expired on February 5, 2018, he had not paid the filing fee or obtained an order allowing him to proceed on appeal *in forma pauperis*, the matter would be brought to the court's attention on May 14, 2018, for action that may include dismissal of the appeal, and he could seek relief from default by

motion. The appellate clerk mailed the default notice to the address listed in the notice of appeal, and the default notice has not been returned;

(5) Kaluau took no further action in this appeal; and

(6) An appeal may be dismissed where the record on appeal has not been prepared because the appellant failed to pay the required fees or obtain an order allowing the appellant to proceed *in forma pauperis*. HRAP Rule 11(b)(2), (c)(2).

Therefore, IT IS HEREBY ORDERED that the appeal is dismissed.

DATED: Honolulu, Hawai'i, June 12, 2018.

Chief Judge

Associate Judge

Associate Judge