

NO. 30106

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

RICHARD W. RADUENZEL, Plaintiff-Appellee, v.
DEVON JAMES MONCUR, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 1RC08-1-9310)

ORDER DENYING MARCH 15, 2010 HRAP RULE 40
MOTION FOR RECONSIDERATION OF MARCH 3, 2010 ORDER
OF DISMISSAL AND MARCH 16, 2010 AMENDED HRAP RULE 40
MOTION FOR RECONSIDERATION OF MARCH 3, 2010 ORDER OF DISMISSAL
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon review of (1) the March 3, 2010 order of dismissal, (2) Defendant-Appellant Devon James Moncur's (Appellant Moncur) March 15, 2010 motion to reconsider the March 3, 2010 order of dismissal pursuant to Rule 40 of the Hawai'i Rules of Appellate Procedure (HRAP), (3) Appellant Moncur's March 16, 2010 amended HRAP Rule 40 motion for reconsideration of the March 3, 2010 order of dismissal, and (4) the record, we initially note that HRAP Rule 40(a) provides that "[a] motion for reconsideration may be filed by a party only within 10 days after the filing of the . . . dispositional order[.]" Therefore, Appellant Moncur's March 16, 2010 amended HRAP Rule 40 motion for reconsideration of the March 3, 2010 order of dismissal is untimely under HRAP Rule 40(a). Additionally, HRAP Rule 40(e) provides that "[o]nly one motion for reconsideration may be filed by any party[.]" Therefore, Appellant Moncur's March 16, 2010 amended HRAP Rule 40 motion for reconsideration of the March 3, 2010 order of dismissal is unauthorized under HRAP Rule 40(e).

It further appears that we did not overlook or misapprehend any points of law or fact when we entered the March 3, 2010 order of dismissal, and, thus, Appellant Moncur's March 15, 2010 HRAP Rule 40 motion for reconsideration of the March 3, 2010 order of dismissal lacks merit.

Therefore, IT IS HEREBY ORDERED that Appellant Moncur's March 15, 2010 HRAP Rule 40 motion for reconsideration and March 16, 2010 amended HRAP Rule 40 motion of the March 3, 2010 order of dismissal are denied.

DATED: Honolulu, Hawai'i, March 18, 2010.

Presiding Judge

Associate Judge

Associate Judge