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Intermediate Court of Appeals
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NO. 29721

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

JACK SIGAFUSS, Plaintiff-Appellant, v.
STATE OF HAWAI'I, Defendant-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 07-1-1750)

SUMMARY DISPOSITION ORDER

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

Plaintiff-Appellant Jack Sigafuss (Sigafuss) appeals from the February 20, 2009 judgment of the Circuit Court of the First Circuit (circuit court)¹ in favor of Defendant-Appellee State of Hawai'i.

Sigafuss is a pro se prisoner who currently resides in a prison facility in Florida. Sigafuss filed a civil suit against the State alleging negligence in the State's failure to provide appropriate medical treatment for Sigafuss's broken jaw and appropriate mental health services while Sigafuss was incarcerated at Oahu Community Correctional Center in January 2006. At the conclusion of a non-jury trial, the circuit court entered judgment in favor of the State and against Sigafuss.

¹ The Honorable Gary W.B. Chang presided.

Upon careful review of the record and the briefs submitted by the parties, and having given due consideration to the arguments advanced and the issues raised by the parties, we resolve Sigafuss's points of error as follows:

Sigafuss's briefs do not adhere to Hawai'i Rules of Appellate Procedure (HRAP) requirements on several grounds. His opening brief does not set forth a concise statement of the points of error, it omits record citations in the statement of the case, and Sigafuss failed to append a copy of the lower court's final judgment and findings of fact and conclusions of law. See HRAP Rule 28(b). While this court could affirm the circuit court's judgment on this basis alone, Hawai'i appellate courts have a policy of deciding cases on the merits where possible. See Hous. Fin. & Dev. Corp. v. Ferguson, 91 Hawai'i 81, 85-86, 979 P.2d 1107, 1111-12 (1999).

As best we can discern from Sigafuss's briefs, he claims that the State acted negligently regarding the diagnosis and treatment of his alleged injuries. However, Sigafuss has failed to point to any errors in the proceedings before the circuit court. As Sigafuss has not provided transcripts of the trial, in violation of HRAP Rule 10(b), we have no basis upon which to adequately conduct a plain error review. Hawaiian Trust Co., Ltd. v. Cowan, 4 Haw. App. 166, 172, 663 P.2d 634, 638 (1983) (ruling that the trial court's findings and conclusions shall be left undisturbed where omission of the transcripts precludes the court from determining whether the trial court's findings are clearly erroneous).

Sigafuss offers no reason for us to conclude that the trial court erred in its judgment and has failed to carry the burden of showing reversible error in the record on appeal. Bettencourt v. Bettencourt, 80 Hawai'i 225, 230, 909 P.2d 553, 558 (1995) (the burden "is upon appellant in an appeal to show

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error by reference to matters in the record, and he or she has the responsibility of providing an adequate transcript") (brackets and internal quotation marks omitted)).

Therefore,

IT IS HEREBY ORDERED that the judgment entered on February 20, 2009 in the Circuit Court for the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, September 14, 2011.

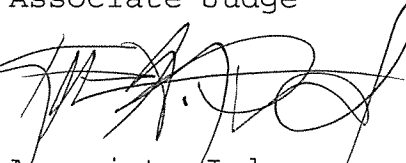
On the briefs:

Jack Sigafuss,
Plaintiff-Appellant, pro se.


Chief Judge

Mark M. Nomura and
Caron M. Inagaki,
Deputy Attorneys General,
for Defendant-Appellee.


Associate Judge


Associate Judge