

**Electronically Filed
Intermediate Court of Appeals
CAAP-14-0001232
21-MAY-2015
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NO. CAAP-14-0001232

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

IN RE MARN FAMILY LITIGATION

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(MASTER FILE NO. 00-1-MFL)
(CIVIL NOS. 98-5371-12 and 98-4706-10)

ORDER DISMISSING ERIC Y. MARN'S
APPEAL PURSUANT TO HRAP RULE 30

(By: Foley, Presiding Judge, Leonard and Ginoza, JJ.)

Upon review of the record, it appears that

(1) On October 29, 2014, Defendants-Appellants Alexander Y. Marn (Alexander) and Eric Y. Marn (Eric), each pro se, filed a single notice of appeal;

(2) On December 29, 2014, the circuit court clerk filed the record on appeal, and the appellate clerk notified the parties that the jurisdictional statement was due on or before January 8, 2015, and the opening brief was due on or before February 9, 2015;

(3) Neither Alexander nor Eric filed a jurisdictional statement or opening brief;

(4) On February 26, 2015, the appellate clerk filed a notice of default of the jurisdictional statement and opening brief for Alexander and Eric, noting that the appeal may be dismissed, pursuant to Hawai'i Rules of Appellate Procedure Rule 30, and relief from default should be made by motion;

(5) Alexander filed a late jurisdictional statement on February 27, 2015, and Eric filed a "joinder" in Alexander's jurisdictional statement on March 3, 2015;

(6) On March 6, 2015, Alexander filed what the court construed as a motion for relief from default of the jurisdictional statement and opening brief, and an extension of time for the opening brief;

(7) On March 9, 2015, Eric filed what the court construed as a motion for relief from default of the jurisdictional statement (requesting a one week extension), and joinder in Alexander's March 6, 2015 motion;

(8) On March 16, 2015, the court granted Alexander's requested relief, accepted his late-filed jurisdictional statement, and extended his opening brief due date;

(9) Alexander subsequently retained an attorney, who filed an opening brief for Alexander on May 11, 2015;

(10) With respect to Eric, the court stated the following in the March 16, 2015 order:

Eric is cautioned that the proper response to a notice of default of the jurisdictional statement and of the opening brief is a motion for relief from default rather than

filing a late request to extend time to file the jurisdictional statement, and that irrespective of review and preparation of a large volume of appeal documents, he is nonetheless responsible for timely meeting deadlines for the filing of documents or requests for extensions. [Eric's joinder in] Alexander's motion to extend the due date of Alexander's opening brief . . . does not serve as a motion to extend the due date of Eric's opening brief, and Eric's opening brief remains in default, without any motion for relief from default of the opening brief having been filed.

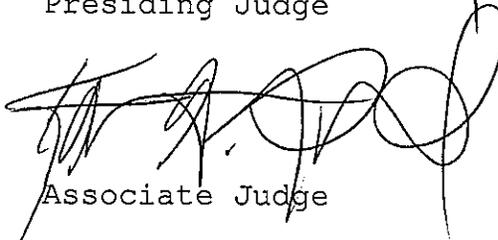
(Emphasis in original.) Ultimately, the court granted Eric's requested relief, extended the jurisdictional statement due date to March 16, 2015, and noted, "Eric's opening brief remains in default, and Eric's appeal may be dismissed"; and

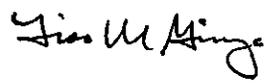
(11) Eric filed his jurisdictional statement late on March 17, 2015, but has not filed an opening brief or sought relief from default of the opening brief.

Therefore, IT IS HEREBY ORDERED that Eric Y. Marn's appeal in case number CAAP-14-0001232 is dismissed.

DATED: Honolulu, Hawai'i, May 21, 2015.


Daniel R. Foley
Presiding Judge


Associate Judge


Associate Judge