

NO. CAAP-14-0000821

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

THE ESTATE OF EUGENE IN WHAN LEE,  
aka EUGENE INN WHAN LEE, aka EUGENE I. W. LEE,  
aka EUGENE LEE, Deceased

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(PROBATE NO. 97-0602)

ORDER

- (1) GRANTING THE JULY 29, 2014 MOTION TO DISMISS APPEAL,  
AND  
(2) DENYING THE JULY 29, 2014 MOTION FOR SANCTIONS  
(By: Nakamura, C.J., Foley and Fujise, JJ.)

Upon consideration of "Respondent-Appellee's Motion to Dismiss Appeal and for Sanctions" (**Motion**), filed on July 29, 2014, by Respondent-Appellee Marilyn H.O. Lee (**Appellee**), the papers in support, the record, and noting no opposition, it appears that:

(1) On May 12, 2014, Petitioner-Appellant Blake Yoon (**Appellant**), through Counsel Joseph W. Huster (**Counsel**), filed a notice of appeal, making a request for all transcripts or a statement of points of error on appeal due on May 22, 2014, pursuant to Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 10(b)(4).

(2) On June 18, 2014, the record on appeal was filed, making the opening brief due on July 28, 2014, pursuant to HRAP Rule 28(b).

(3) Appellant did not file a request for transcripts or statement of points of error on appeal, and on June 5, 2014, Appellee filed a motion for an order requiring Appellant to comply with HRAP Rule 10(b)(1) and (4) and for sanctions.

(4) On June 19, 2014, this court granted the June 5, 2014 motion in part, denying the motion for sanctions and ordering Appellant, through Counsel, to file, within five (5) days of the date of the order, a request for all transcripts or a statement of points of error on appeal, consistent with HRAP Rule 10(b)(4), and that failure to timely comply may result in sanctions including dismissal of the appeal.

(5) Thereafter, Appellant did not file a request for transcripts or statement of points of error on appeal.

(6) On June 27, 2014, Appellee filed a motion to dismiss the appeal and for sanctions.

(7) On July 21, 2014, this court issued an order (a) denying the June 27, 2014 motion; (b) ordering Appellant, through Counsel, to file within five (5) days of the order a request for all transcripts or a statement of points of error on appeal, and that failure to comply may result in sanctions; and (c) ordering Counsel within ten (10) days of the order to show cause as to why he failed to timely file a request for all transcripts or a statement of points of error on appeal, pursuant to this court's June 19, 2014 order, and that failure to timely respond to the

order or show good cause may result in sanctions.

(8) Thereafter, Appellant failed to file a request for transcripts or a statement of points of error on appeal and Counsel failed to timely respond to the order to show cause.

(9) Appellant failed to file an opening brief or request for extension of time to file the opening brief by the July 28, 2014 due date.

(10) On July 29, 2014, Appellee filed the instant Motion, requesting an order dismissing the appeal and sanctioning Appellant for failing to file an opening brief by the deadline or comply with the July 21, 2014 order to file a request of all transcripts or statement of points of error on appeal.

(11) On August 26, 2014, Counsel filed a Statement of Payment of Sanctions, which showed that he had submitted an untimely payment of the monetary sanctions this court had previously ordered him to pay in this appeal.

IT IS HEREBY ORDERED that the motion to dismiss the appeal is granted and this appeal is dismissed.

IT IS FURTHER ORDERED that the motion for sanctions is denied.

DATED: Honolulu, Hawai'i, August 28, 2014.

Chief Judge

Associate Judge

Associate Judge