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Intermediate Court of Appeals
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NO. CAAP-16-0000107

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellant, v.
CHERRISSE SUMIE YOMEN, Defendant-Appellee

APPEAL FROM THE DISTRICT COURT OF THE FIFTH CIRCUIT
(CASE NO. 5DTA-15-0248)

ORDER

(1) GRANTING THE AUGUST 4, 2016 MOTION TO DISMISS APPEAL

AND

(2) GRANTING THE AUGUST 30, 2016 MOTION FOR
RELIEF FROM DEFAULT OF THE OPENING BRIEF

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

Upon consideration of the Motion to Dismiss Appeal, filed August 4, 2016, by Plaintiff-Appellant State of Hawaii (Appellant), the Declaration of Counsel in Response to August 26, 2016 Notice of Default of Brief, filed August 30, 2016, by Deputy Prosecuting Attorney Tracy Murakami (Counsel), which the court construes as a motion for relief from default, the papers in support, the record, and there being no opposition, it appears that:

(1) The appeal was docketed on April 25, 2016;

(2) The opening brief was due on a second extension of time on or before August 5, 2016;

(3) On August 4, 2016, Appellant filed a motion to dismiss the appeal, pursuant to Hawai'i Rules of Appellate Procedure Rule 42(b), noting that the parties do not owe each other or the court any fees or costs;

(4) Appellant did not file the opening brief;

(5) On August 26, 2016, the appellate clerk notified Appellant that the time for filing the opening brief had expired, the matter would be called to the court's attention on September 6, 2016, for appropriate action, which could include dismissal of the appeal, and relief from default should be made by motion; and

(6) On August 30, 2016, Counsel filed a declaration stating Appellant's motion is pending and unopposed, and dismissal is warranted.

Therefore, IT IS HEREBY ORDERED that Appellant's August 4, 2016 motion to dismiss the appeal is granted, and the appeal is dismissed.

IT IS FURTHER ORDERED that Counsel's August 30, 2016 motion for relief from default of the opening brief is granted.

DATED: Honolulu, Hawai'i, September 26, 2016.


Chief Judge


Associate Judge


Associate Judge