

NO. CAAP-16-0000184

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

MEREDITH KAILUA-KONA, LLC,
a Delaware limited liability company, Petitioner-Appellee,
v.
JOHN APELE KALUA'U, III, Respondent-Appellant,
and
DOE DEFENDANTS 1-10, Defendants

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(S.P. NO. 15-1-020K)

ORDER DISMISSING THE APPEAL PURSUANT TO HRAP RULE 11 (b), (c)(2)
(By: Nakamura, C.J., Fujise and Reifurth, JJ.)

Upon review of the record, it appears that:

(1) On March 17, 2016, Respondent-Appellant John A. Kalua'u (Appellant), pro se, filed a notice of appeal from the February 16, 2016 circuit court order in the underlying case, S.P. No. 15-1-020K, granting Petitioner Meredith Kailua-Kona, LLC's motion for a preliminary injunction.

(2) The circuit court order states, in part, that due to Appellant not providing a valid mailing address, all documents and notices required to be served upon Appellant, pursuant to the Hawaii Rules of Civil Procedure, shall be placed in a court jacket established by the circuit court clerk and located adjacent to the clerk's office;

(3) On March 17, 2016, the circuit court clerk notified Appellant to pay the filing fees or file a petition to proceed *in forma pauperis* by the close of business on April 11, 2016, or the "case may be dismissed." It is not clear whether or how the circuit court clerk served this notice on Appellant;

(4) On July 14, 2016, the appellate clerk notified Appellant that the time to docket the record on appeal expired on May 16, 2016, the filing and docketing fees had not been paid, the record on appeal cannot be prepared without the fees or an order authorizing Appellant to proceed on appeal *in forma pauperis*, the matter would be called to the court's attention on July 25, 2016, for action that may include dismissal, and Appellant may file a motion requesting relief from default. That same day, the circuit court clerk placed the notice in the court jacket designated for service upon Appellant;

(5) Appellant did not pay the filing fees, or take any further action in this appeal; and

(6) An appeal may be dismissed where the record on appeal has not been prepared because the appellant failed to pay the required fees or obtain an order allowing the appellant to proceed *in forma pauperis*. Hawai'i Rules of Appellate Procedure (HRAP) Rule 11(b)(2), (c)(2).

Therefore, IT IS HEREBY ORDERED that the appeal is dismissed.

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

Chief Judge

Associate Judge

Associate Judge