

NO. CAAP-18-0000631

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

SHALOM AMAR, Plaintiff-Appellee, v.  
JONATHAN WRIGHT and ELI WALDON, Defendants-Appellants

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT  
PUNA DIVISION  
(CIVIL NO. 3RC 17-1-000563)

ORDER

(By: Reifurth, Presiding Judge, Chan and Hiraoka, JJ.)

Upon consideration of Ivan Van Leer's (Van Leer) January 7, 2019 Motion to Withdraw as Counsel (Motion), the papers in support, the record, and there being no opposition, it appears that:

(1) Van Leer represented Defendants-Appellants Jonathan Wright (Wright) and Eli Waldon (Waldon) in the underlying case, No. 3RC 17-1-000563;

(2) On August 15, 2018, Wright and Waldon filed the notice of appeal pro se. The notice of appeal is signed by Wright, purportedly for himself and Waldon;

(3) Under HRS §§ 505-2 and 605-14 (2016), persons not licensed to practice law in Hawai'i "are not permitted to act as 'attorneys' and represent other natural persons in [their] causes." Oahu Plumbing & Sheet Metal, Ltd. v. Kona Constr., Inc., 60 Haw. 372, 377, 590 P.2d 570, 573 (1979); see also HRS

§ 605-17 (2016) (any person who engages in the unauthorized practice of law in violation of HRS § 605-14 "shall be guilty of a misdemeanor"). Wright is not an attorney licensed to practice law in Hawai'i. As a party proceeding pro se, Wright is authorized to sign and file documents on his behalf but he may not sign and file documents for Waldon. **Therefore, the notice of appeal is valid as to Wright only, and invalid as to Waldon;**

(4) On October 26, 2018, the district court clerk filed the record on appeal, which identified Van Leer as Wright and Waldon's counsel;

(5) On October 29, 2018, the appellate clerk notified the parties, through Van Leer for Wright and Waldon, that the statement of jurisdiction and opening brief were due on or before November 5, 2018, and December 5, 2018, respectively. There is no indication the appellate clerk notified Wright of the filing deadlines;

(6) Nonetheless, Wright filed pro se the statement of jurisdiction on November 2, 2018, and obtained a telephonic clerk's extension for the opening brief to January 4, 2019;

(7) Wright failed to file the opening brief or request an extension;

(8) In the instant Motion, Van Leer seeks to withdraw as counsel for Wright and Waldron, because they disregarded his advice about whether to appeal, and Wright stated he did not want to proceed with the appeal but nonetheless filed the notice of appeal pro se without Van Leer's advice, consent, or knowledge. Van Leer states Wright and Waldon have not contacted Van Leer since Wright filed the notice of appeal. Van Leer provides Wright and Waldon's contact information, consistent with Hawai'i Rules of Appellate Procedure (HRAP) Rule 50(a);

(9) There appears to be good cause to grant the Motion;

(10) On January 8, 2018, the appellate clerk entered a default of opening brief; and

(11) Under the circumstances, and given the confusion generated by Wright's and Van Leer's filings in this appeal, the court will vacate the default notice and establish a new deadline for Wright to file the opening brief pro se.<sup>1</sup>

Therefore, IT IS HEREBY ORDERED that the appeal is dismissed as to Eli Waldon for lack of appellate jurisdiction. Henceforth, Eli Waldon shall be identified in this appeal as Defendant-Appellee.

IT IS FURTHER ORDERED that the Motion is granted. Henceforth, Jonathan Wright and Eli Waldon shall proceed pro se in this appeal, unless counsel enters an appearance for either or both of them.

IT IS FURTHER ORDERED that the default of opening brief, filed January 8, 2019, is vacated. The deadline to file the opening brief is extended to July 1, 2019.

IT IS FURTHER ORDERED that the appellate clerk shall mail a copy of this order to Jonathan Wright and Eli Waldon at the addresses listed in the notice of appeal and the certificate

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<sup>1</sup> It is not clear how several electronic filings in this appeal were made. For instance, the text, format, identifying and contact information, and signature suggest Wright prepared and signed the statement of jurisdiction and notice of extension of time for the opening brief but the documents were electronically filed utilizing Van Leer's Judiciary Electronic Filing System (JEFS) User ID. It is unclear whether Van Leer filed the documents for Wright, or Wright filed the documents utilizing Van Leer's JEFS User ID. Either would be inappropriate, especially given Van Leer's assertion that he did not communicate with Wright after Wright filed the notice of appeal. Because Wright will henceforth proceed pro se in this appeal, he may not file documents utilizing Van Leer's JEFS User ID, and must file documents conventionally or obtain his own JEFS User ID. See Hawai'i Electronic Filing & Service Rules Rule 4.

of service attached to the January 7, 2019 Motion, and note their addresses for the record.

DATED: Honolulu, Hawai'i, May 31, 2019.

Presiding Judge

Associate Judge

Associate Judge