

NO. CAAP-19-0000010

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

FREE CHURCH OF TONGA-KONA, A HAWAII DOMESTIC NONPROFIT  
CORPORATION, v. EKALESIA HOOLE POPE O KEKAHA,  
Anyone claiming by, through, or under Ekalesia Hoole Pope o  
Kekaha, and all occupants of the property located at 73-4303-A  
Hawaii Belt Road, TMK (3)7-3-004-006, Doe Defendants 1-30

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT  
NORTH AND SOUTH KONA DIVISION  
(CIVIL NO. 3RC18-1-106K)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that:

(1) On January 3, 2019, Real Party in Interest-  
Appellant Tony Silva (Silva), pro se, conventionally filed the  
notice of appeal;

(2) On January 4, 2019, the district court clerk  
electronically filed the notice of appeal to create case number  
CAAP-19-0000010. Because Silva did not submit the appellate  
filing and docketing fees with the notice of appeal, as required  
by Hawai'i Rules of Appellate Procedure (HRAP) Rule 3(a), the  
district court clerk notified Silva to pay the fees or request a  
fee waiver by January 18, 2019, or the appeal could be dismissed;

(3) On January 31, 2019, Silva filed a document that  
is, among other things, a motion to consolidate case number CAAP-  
19-0000010 with case number CAAP-19-0000005;

(4) On March 14, 2019, the appellate clerk entered a default of the record on appeal, informing Silva that the time to docket the appeal expired on March 5, 2019, he had not paid the filing fee or obtained an order allowing him to proceed on appeal *in forma pauperis*, the matter would be brought to the court's attention on March 25, 2019, for action that may include dismissal of the appeal, and he could seek relief from default by motion. The appellate clerk mailed the default notice to Silva at three different addresses, including the address provided in the notice of appeal and the January 31, 2019 motion, and the U.S. Postal Service returned one of the envelopes as undeliverable;

(5) Silva took no 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*. HRAP Rule 11(b)(2), (c)(2).

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

IT IS FURTHER ORDERED that all pending motions are dismissed.

DATED: Honolulu, Hawai'i, June 14, 2019.

Presiding Judge

Associate Judge

Associate Judge