

NO. CAAP-19-0000016

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

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 Darlene Uilani Kay Spinney (Spinney), 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-19-0000016. Because Spinney 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 Spinney to pay the fees or request
a fee waiver by January 18, 2019, or the appeal could be
dismissed;

(3) On January 31, 2019, Spinney filed a document that is, among other things, a motion to consolidate case number CAAP-19-0000016 with case number CAAP-19-0000005;

(4) On March 14, 2019, the appellate clerk entered a default of the record on appeal, informing Spinney that the time to docket the appeal expired on March 5, 2019, she had not paid the filing fee or obtained an order allowing her 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 she could seek relief from default by motion. The appellate clerk mailed the default notice to Spinney 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) Spinney took no further action in this appeal concerning the default of the record on 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