

NO. CAAP-19-0000345

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

KA'U SUNSHINE LLC, Plaintiff-Appellee, v.
Unknown heirs or assigns of KAHAKU (k), KANAKALAUAI (w),
PAPALIMU (w), KAPANA (k), also known as W. KAPANA (k),
H. AKONA, MALAKINI (w), also known as MALAKINI APIKI (w)
and MALAKINI ENAENA (w), and ALL WHOM IT MAY CONCERN,
Defendants-Appellees, and ANDERSON X. LINDSEY,
Real Party In Interest-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIVIL NO. 17-1-358)

ORDER DENYING OCTOBER 7, 2019 HRAP RULE 40 MOTION
FOR RECONSIDERATION OF SEPTEMBER 26, 2019 ORDER
DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Ginoza, Chief Judge, Fujise and Leonard, JJ.)

Upon review of (1) the September 26, 2019 order dismissing Defendant-Appellant Anderson Lindsey's (Lindsey) appeal in CAAP-19-0000345 for lack of appellate jurisdiction and dismissing all pending motions as moot, (2) Defendant-Appellee Heidi-Sue Lindsey McVey's (McVey) October 7, 2019 motion for clarification of the September 26, 2019 dismissal order, and (3) the record, we deem McVey's October 7, 2019 motion to be, in substance, a motion for reconsideration of the September 26, 2019 dismissal order pursuant to Rule 40 of the Hawaii Rules of Appellate Procedure (HRAP). To the extent that McVey seeks clarification of the September 26, 2019 dismissal order, we clarify that we dismissed Lindsey's entire appeal in CAAP-19-0000345 for lack of appellate jurisdiction because the notice of

appeal was untimely under HRAP Rule 4(a)(1). Consequently, we also dismissed as moot any and all pending motions in CAAP-19-0000345, such as Lindsey's September 12, 2019 motion for reconsideration. As a result, Lindsey's appeal in CAAP-19-0000345 has concluded, and it is now closed. To the extent that McVey seeks reconsideration of the September 26, 2019 dismissal order, we conclude that we did not overlook or misapprehend any points of law or fact when we entered the September 26, 2019 dismissal order.

Therefore, IT IS FURTHER HEREBY ORDERED that McVey's October 7, 2019 HRAP Rule 40 motion for reconsideration is denied.

DATED: Honolulu, Hawai'i, October 10, 2019.

Chief Judge

Associate Judge

Associate Judge