

NO. CAAP-19-0000384

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
MATTHEW MELLOW, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(CASE NOS. 1DTP-19-046244 AND 1DTP-18-191751)

ORDER DISMISSING APPEAL

(By: Ginoza, Chief Judge, Chan and Hiraoka, JJ.)

Upon review of the record, it appears that:

(1) On May 10, 2019, self-represented Defendant-Appellant Matthew A. Mellow (Mellow) filed the notice of appeal without the fees required by Hawai'i Rules of Appellate Procedure (HRAP) Rule 3(a);

(2) On May 17, 2019, the appellate clerk notified Mellow to pay the filing fees or file a motion for leave to proceed on appeal *in forma pauperis* on or before May 28, 2019, or the appeal could be dismissed;

(3) The appellate clerk mailed the May 17, 2019 notice to Mellow at the address indicated on the notice of appeal, and no return mail was received;

(4) On September 5, 2019, the appellate clerk entered a default of the record on appeal, informing Mellow that the time

to docket the appeal expired on July 9, 2019, he had not paid the filing fees or obtained an order allowing him to proceed on appeal *in forma pauperis*, the matter would be brought to the court's attention on September 15, 2019, for action that may include dismissal of the appeal, and he could seek relief from default by motion;

(5) The appellate clerk mailed the September 5, 2019 notice to Mellow at his address on record. The United States Postal Service returned the envelope marked, "Return to Sender, Refused, Unable to Forward." Mellow has not filed a notice of change of address, consistent with HRAP Rule 25(f), and he 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.

DATED: Honolulu, Hawai'i, February 20, 2020.

Chief Judge

Associate Judge

Associate Judge