

NO. CAAP-19-0000691

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

NATHAN McCOTTER, Appellant-Appellant, v.
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, SECURITIES
ENFORCEMENT BRANCH, Appellee-Appellee,

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 1CC181001631)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that:

(1) On October 9, 2019, self-represented Appellant-Appellant Nathan McCotter (McCotter) conventionally filed the notice of appeal. The circuit court clerk electronically filed the notice of appeal on October 10, 2019;

(2) On October 22, 2019, McCotter filed the statement of jurisdiction;

(3) On November 18, 2019, the circuit court clerk filed the record on appeal, and the appellate clerk notified the parties that the statement of jurisdiction and opening brief were due on or before November 29, 2019, and December 30, 2019, respectively;

(4) McCotter did not file the opening brief or request an extension of time;

(5) On January 29, 2020, the appellate clerk notified McCotter that the time for filing the statement of jurisdiction

and opening brief had expired, the matter would be called to the court's attention on February 10, 2020, for appropriate action, which could include dismissal of the appeal, under Hawai'i Rules of Appellate Procedure (HRAP) Rules 12.1(e) and 30, and McCotter could request relief from default by motion; and

(6) The November 18, 2019 notice of entering case on calendar and the January 29, 2020 default notice mistakenly referenced a deadline for the statement of jurisdiction, which McCotter had previously filed. The appellate clerk mailed the notice of entering case on calendar to McCotter at his address on record, and no return mail was received. The appellate clerk mailed the default notice to McCotter at the same address, and the United States Postal Service returned it, marked "Return to Sender, Attempted - Not Known, Unable to Forward." McCotter has not filed a notice of change of address, consistent with HRAP Rule 25(f), and he took no further action in this appeal.

Therefore, IT IS HEREBY ORDERED that the appeal is dismissed for failure to file the opening brief, under HRAP Rule 30.

DATED: Honolulu, Hawai'i, March 6, 2020.

Presiding Judge

Associate Judge

Associate Judge