

NO. CAAP-19-0000579

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

PETER J.S. HIRAI, Appellant-Appellant, v.
CIVIL SERVICE COMMISSION, CITY AND COUNTY OF HONOLULU,
AND DEPARTMENT OF EMERGENCY MANAGEMENT,
CITY AND COUNTY OF HONOLULU, Appellees-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 18-1-1151)

ORDER DENYING STIPULATION TO WITHDRAW AND
GRANTING THE STIPULATION TO DISMISS APPEAL
(By: Leonard, Presiding Judge, Chan and Hiraoka, JJ.)

Upon consideration of the Stipulation and Order to Withdraw as Counsel (Stipulation to Withdraw as Counsel) and the Stipulation and Order to Dismiss Appeal (Stipulation to Dismiss Appeal), both filed November 26, 2019, by Defendant-Appellant Peter J. S. Hirai (Hirai), the papers in support, and the record, it appears that:

(1) In the Stipulation to Withdraw as Counsel, Hirai and his counsel, Ted H. S. Hong (Hong), stipulate to Hong withdrawing as counsel for Hirai and Hirai proceeding in the appeal self-represented; that, upon approval of the Stipulation to Withdraw as Counsel, Hirai will provide written notice to the appellate clerk of his contact information, including his mailing address, e-mail address, and telephone numbers; that Hirai will keep the appellate clerk informed of any change to his contact information; and Hong's representation in this case "shall terminate upon effective entry by this Court." The Stipulation

to Withdraw as Counsel is dated and signed by Hirai and Hong;

(2) The court construes the Stipulation to Withdraw as Counsel as seeking relief under Hawai'i Rules of Appellate Procedure (HRAP) Rule 50(a), which states:

An attorney desiring to withdraw as counsel of record must file a motion requesting leave therefor. The motion must show that notice of the motion was given by service upon the attorney's client. The notice must provide, if available, the client's physical and electronic mail address to be used for service, and telephone number. The appellate court may, in its discretion, grant or deny such motion or, where appropriate, remand the case for filing of a motion to withdraw.

The Stipulation to Withdraw as Counsel does not provide Hirai's physical or email addresses for service, or telephone number. That Hirai may provide that information in the future does not comply with the rule. Accordingly, the court will not approve the Stipulation to Withdraw as Counsel without prejudice;

(3) In the Stipulation to Dismiss Appeal, the parties stipulate to dismiss the appeal with prejudice and bear their own attorneys' fees and costs, under HRAP Rule 42(b). The Stipulation to Dismiss Appeal is dated and signed by Hirai and counsel for all parties appearing in the appeal, including Hong for Hirai; and

(4) There appears to be good cause to approve the Stipulation to Dismiss Appeal.

Therefore, IT IS HEREBY ORDERED that the Stipulation to Withdraw as Counsel is denied without prejudice.

IT IS FURTHER ORDERED that the Stipulation to Dismiss Appeal is granted and the appeal is dismissed with prejudice. The parties shall bear their own attorneys' fees and costs.

DATED: Honolulu, Hawai'i, August 26, 2020.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Derrick H.M. Chan
Associate Judge

/s/ Keith K. Hiraoka
Associate Judge