

NO. CAAP-20-0000032

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
DONALD L. WILKERSON, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT
NORTH AND SOUTH HILO DIVISION
(CASE NO. 3DTP-19-023340)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that:

(1) On January 21, 2020, self-represented Defendant-Appellant Donald L. Wilkerson (**Wilkerson**) filed the notice of appeal without paying the fees required by Hawaii Rules of Appellate Procedure (**HRAP**) Rule 3(a);

(2) On January 23, 2020, the circuit court clerk mailed Wilkerson a notice of non-payment, informing him that he is required to pay the filing fees by February 3, 2020, or the appeal could be dismissed;

(3) On March 30, 2020, the appellate clerk filed a notice of non-payment, informing Wilkerson that he had not paid the filing fees or filed a motion for leave to proceed on appeal *in forma pauperis*, and that failure to do either by April 9, 2020, could result in dismissal of the appeal;

(4) On July 17, 2020, the appellate clerk entered a default of the record on appeal, informing Wilkerson that the

time to docket the appeal expired on March 23, 2020, he had not paid the filing fees, the record on appeal cannot be filed without payment of fees or an order allowing him to proceed on appeal *in forma pauperis*, the matter would be brought to the court's attention on July 27, 2020, for action that may include dismissal of the appeal, and he could seek relief from default by motion;

(5) Wilkerson took no further action in the 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, September 25, 2020.

/s/ Derrick H.M. Chan
Presiding Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Clyde J. Wadsworth
Associate Judge