

NO. CAAP-20-0000648

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

PATRICK M. NG, JR., Plaintiff-Appellant, v.
KEN'S TOWING, Defendant-Appellee

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT
NORTH AND SOUTH HILO DIVISION
(CASE NO. 3DRC-19-0000265)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that:

(1) On October 26, 2020, the appellate clerk received self-represented Plaintiff-Appellant Patrick M. Ng, Jr.'s (Ng) notice of appeal without the fees required by Hawai'i Rules of Appellate Procedure (HRAP) Rule 3(a). The appellate clerk electronically filed the notice of appeal to create this appeal, CAAP-20-0000648, on October 27, 2020;

(2) On November 18, 2020, the appellate clerk notified Ng to pay the filing fees or file a motion for leave to proceed on appeal *in forma pauperis* on or before November 30, 2020, or the appeal could be dismissed;

(3) On December 29, 2020, the appellate clerk entered a default of the record on appeal, informing Ng that the time to docket the appeal expired on December 28, 2020, 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 January 8, 2020, for action that may include

dismissal of the appeal, and he could seek relief from default by motion;

(4) The appellate clerk mailed the notice of non-payment and the default notice to Ng at his address on record, as reflected on documents Ng filed in the underlying case, including the complaint and requests for transcripts, documents Ng filed in this case, including a letter to Ng from the Office of Disciplinary Counsel, and that is substantially consistent with the address listed on the notice of appeal. The United States Postal Service returned the envelopes marked, "Return to Sender, Attempted - Not Known, Unable to Forward," with handwriting that states, "Opened in error, Rtn. to Sender, Use address on appeal form." Ng has not filed a notice of change of address, consistent with HRAP Rule 25(f); and

(5) 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, April 27, 2021.

/s/ Keith K. Hiraoka
Presiding Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Karen T. Nakasone
Associate Judge