

NO. CAAP-20-0000734

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

RACHEL PALMIR SHORT, Petitioner-Appellee, v.
KELLY TYLER SHORT, Respondent-Appellee, and
DAN O'PHELAN, Real Party in Interest-Appellant

APPEAL FROM THE FAMILY COURT OF THE THIRD CIRCUIT
(FC-DA NO. 20-1-0451)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that:

(1) On November 19, 2020, self-represented Real Party in Interest-Appellant Dan O'Phelan (O'Phelan) conventionally filed the notice of appeal in the underlying case, FC-DA No. 20-1-0451, without the fees required by Hawai'i Rules of Appellate Procedure (HRAP) Rule 3(a);

(2) On November 25, 2020, the family court clerk electronically filed the notice of appeal to create this appeal in CAAP-20-0000734, and notified O'Phelan to pay the filing fees or request a fee waiver on or before December 4, 2020, or the appeal could be dismissed;

(3) On January 19, 2021, the appellate clerk notified O'Phelan to pay the filing fees or file a motion for leave to proceed on appeal *in forma pauperis* on or before January 29, 2021, or the appeal could be dismissed;

(4) On February 8, 2021, the appellate clerk entered a default of the record on appeal, informing O'Phelan that the time to docket the appeal expired on January 19, 2021, 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 February 18, 2021, for action that may include dismissal of the appeal, and he could seek relief from default by motion;

(5) O'Phelan 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, April 21, 2021.

/s/ Keith K. Hiraoka
Presiding Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Karen T. Nakasone
Associate Judge