

NO. CAAP-21-0000326

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

RIKA SHIMIZU, Plaintiff-Appellant, v.
RT, a minor, TOMOKO MATSUKAWA, his legal guardian,
MINA TAKAMURA, his mother, TAKESHI NANBU, his father,
CITY AND COUNTY OF HONOLULU, HONOLULU POLICE DEPARTMENT,
HPD Detective, ARNOLD SAGUCIO, HPD Officer, MARC COBB-ADAMS,
HPD Detective, SERGEANT FLORAND BLANCO,
Officers and employees from HONOLULU POLICE DEPARTMENT,
Officers and employees of U.S. MARSHALS TASK FORCE,
and DOES 1 TO 10, Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 1CCV-20-0000521)

ORDER DISMISSING APPEAL

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

Upon consideration of self-represented Plaintiff-Appellant Rika Shimizu's (Shimizu) August 31, 2021 Motion for Stay of Proceedings and Orders (August 31, 2021 Motion), the papers in support, and the record, it appears that:

(1) On July 12, 2021, the court denied Shimizu's June 18, 2021 motion for leave to proceed on appeal *in forma pauperis*, ordered Shimizu to pay the filing fees within ten days from the order, and cautioned Shimizu that failure to pay the filing fees may result in the appeal being dismissed, citing Hawai'i Rules of Appellate Procedure (HRAP) Rule 24(c);

(2) On July 29, 2021, the court denied Shimizu's July 21, 2021 motion for reconsideration of the July 12, 2021

order, and again ordered Shimizu to pay the filing fees within ten days from the order with the caution that failure to do so may result in the appeal being dismissed, under HRAP Rule 24(c);

(3) On August 12, 2021, the court, among other things, construed Shimizu's August 5, 2021 motion seeking, in part, "to stay the due date for the payment of the filing fees and prepaid fees which is set 10 days from the date of issuance of the Court Order which was issued on July 29, 2021 pursuant to Rule 41 of HRAP" as a second motion for reconsideration of the July 12, 2021 order denying her request for *in forma pauperis* designation and denied the motion because "[o]nly one motion for reconsideration may be filed by any party. HRAP Rule 40(e)";

(4) In the August 31, 2021 Motion, Shimizu seeks, under HRAP Rule 27, to suspend proceedings in this appeal and the operation of the July 12, 2021 order because on August 30, 2021, Shimizu filed in federal court a complaint against the circuit court judge in the underlying case, 1CCV-20-0000521, alleging the circuit court's denial of Shimizu's motion for leave to proceed on appeal *in forma pauperis* violated the federal constitution and the Hague Service Convention, the circuit court's decisions are preempted by federal law, and it would "be in the best interests of justice, equity and fair play"; and

(5) If the court denies a motion for leave to proceed on appeal *in forma pauperis* and the appellant does not pay the filing fees within ten days after the denial, then the court may dismiss the appeal. HRAP Rule 24(c). In addition, 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). Here, Shimizu fails to demonstrate that the Supremacy Clause, U.S. Const. art. VI, cl. 2, requires this court to suspend her appeal indefinitely while her federal case is pending, and she cites no other authority for the requested relief. In addition, Shimizu has not paid the filing

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fees in this case, which, following the July 29, 2021 order, were due on or before August 9, 2021. See HRAP Rules 24(c) & 26(a).

Therefore, IT IS HEREBY ORDERED that the appeal is dismissed.

IT IS FURTHER ORDERED that the August 31, 2021 Motion is denied.

IT IS FURTHER ORDERED that all other pending motions are dismissed.

DATED: Honolulu, Hawai'i, September 3, 2021.

/s/ Keith K. Hiraoka
Presiding Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Alexa D.M. Fujise
Associate Judge