

NO. CAAP-21-0000383

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

PEAHI: DARLENE SPINNEY; KELIIHULUHULU: ALFRED SPINNEY,
KAMAKA-MAOLI, Petitioners-Appellants, v.
EXTRA SPACE STORAGE, EXTRA SPACE STORAGE LP,
ESS HOLDINGS BUSINESS TRUST I; GARY WELLMAN; LIZ FERNANDEZ;
MAILE MORESH; LARAINÉ CROOM; SPENCER F. KIRK;
PETER SCOTT STUBBS; CHARLES L. ALLEN; JOSEPH MARGOLIS;
KARL FRED SKOUSEN; DOE CORPORATIONS 1-10; JOHN DOES 1-10;
JANE DOES 1-10; DOE ENTITIES 1-10, Respondents-Appellees

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT
NORTH AND SOUTH KONA DIVISION
(CIVIL NO. 3DRC-21-0000708)

ORDER DISMISSING APPEAL

(By: Ginoza, Chief Judge, Nakasone and Fujise, JJ.)

Upon review of the record, it appears that:

(1) On June 23, 2021, self-represented Petitioners-Appellants Darlene Spinney and Alfred Spinney (the Spinneys) filed the notice of appeal without the fees required by Hawai'i Rules of Appellate Procedure (HRAP) Rule 3(a);

(2) On August 6, 2021, the appellate clerk entered a notice of non-payment, instructing the Spinneys to pay the filing fee or seek a fee waiver on or before August 16, 2021, or the appeal could be dismissed;

(3) The record on appeal was due on or before August 23, 2021. See HRAP Rule 11(b)(1);

(4) On August 30, 2021, the appellate clerk entered a default of the record on appeal, informing the Spinneys that the time to docket the appeal had expired, the Spinneys had not paid

the filing fee or obtained an order allowing them to proceed on appeal *in forma pauperis*, the matter would be brought to the court's attention on September 9, 2021, for action that may include dismissal of the appeal, and the Spinneys could seek relief from default by motion;

(5) The Spinneys took no further action in the appeal to address the default of the record on 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 17, 2021.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Karen T. Nakasone
Associate Judge

/s/ Alexa D.M. Fujise
Associate Judge