

NO. CAAP-21-0000424

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

OLGA VLADIMIROVNA BORDENYUK, Plainiff-Appellant, v.
DAYNA KAULIA-WEBB, Defendant-Appellee

APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT
WAILUKU DIVISION
(CASE NO. 2DSC-21-0000040)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that:

(1) On July 19, 2021, self-represented Plaintiff-Appellant Olga Vladimirovna Bordenyuk (Bordenyuk) filed the notice of appeal without the fees required by Hawai'i Rules of Appellate Procedure (HRAP) Rule 3(a);

(2) The same day, the district court denied Bordenyuk's application for leave to proceed on appeal *in forma pauperis*;

(3) On July 20, 2021, the district court clerk entered a notice of payment of fees, instructing Bordenyuk to pay the filing fee or request a fee waiver on or before July 30, 2021, or the appeal could be dismissed;

(4) On August 9, 2021, Bordenyuk filed here a copy of the district court's July 19, 2021 order denying her motion for leave to proceed on appeal *in forma pauperis*, but she did not subsequently seek relief in this court. See HRAP Rule 24(a);

(5) The record on appeal was due on or before September 17, 2021. See HRAP Rule 11(b)(1);

(6) On September 20, 2021, the appellate clerk entered a default of the record on appeal, informing Bordenyuk that the time to docket the appeal had expired, Bordenyuk had not paid the filing fee or obtained an order allowing her to proceed on appeal *in forma pauperis*, the matter would be brought to the court's attention on September 30, 2021, for action that may include dismissal of the appeal, and Bordenyuk could seek relief from default by motion;

(7) The appellate clerk mailed the default notice to Bordenyuk at her address indicated on the notice of appeal, but the United States Postal Service returned the envelope marked, "No Such Number, Unable to Forward";

(8) Bordenyuk has not filed a notice of change of address, consistent with HRAP Rule 25(f), or taken any other action in this appeal; and

(9) 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, October 21, 2021.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Karen T. Nakasone
Associate Judge