

NO. CAAP-22-0000004

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

RK-H, Plaintiff-Appellee, v.
MK-H, Defendant-Appellant.

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(CASE NO. FC-D 08-1-2490)

ORDER DISMISSING APPEAL

(By: Ginoza, Chief Judge, Leonard and McCullen, JJ.)

Upon review of the record, it appears that:

(1) On December 30, 2021, self-represented Defendant-Appellant MK-H conventionally filed a "Letter of Notice," construed as a notice of appeal in the underlying case, FC-D No. 08-1-2490, without the fees required by Hawai'i Rules of Appellate Procedure (HRAP) Rule 3(a);

(2) On January 5, 2022, the clerk electronically filed the notice of appeal to create the appeal in CAAP-22-0000004;

(3) On January 12, 2022, the appellate clerk entered a notice of non-payment, instructing MK-H to pay the filing fee or request a fee waiver on or before January 24, 2022, or the appeal could be dismissed. The appellate clerk mailed the notice of non-payment to MK-H's address on the notice of appeal, and no return mail was received;

(4) The record on appeal was due on or before March 7, 2022, see HRAP Rule 11(b)(1), but MK-H failed to pay the filing fee or request a fee waiver from this court;

(5) On March 10, 2022, the appellate clerk entered a default of the record on appeal, informing MK-H that the time to docket the appeal had expired, MK-H had not paid the filing fee or obtained an order allowing him to proceed on appeal *in forma pauperis*, the matter would be brought to the court's attention on March 21, 2022, for action that may include dismissal of the appeal, and MK-H could seek relief from default by motion. The appellate clerk mailed the default notice to MK-H's address on the notice of appeal, but the United States Postal Service returned the envelope, marked, "Return to Sender, Not Deliverable as Addressed, Unable to Forward"; and

(6) MK-H has not filed a notice of change of address, consistent with HRAP Rule 25(f), or taken any further action in this appeal. 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 13, 2022.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Katherine G. Leonard
Associate Judge

/s/ Sonja M.P. McCullen
Associate Judge