

NO. CAAP-22-0000370

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

MARISA MADISON, fka MARISA M. PROVOST, Plaintiff-Appellant, v.
CHARLETON J. PROVOST, Defendant-Appellee.

APPEAL FROM THE FAMILY COURT OF THE SECOND CIRCUIT
(CASE NO. 2DV181000378)

ORDER GRANTING MOTION TO DISMISS APPEAL
(By: Ginoza, Chief Judge, Wadsworth and Chan, JJ.)

Upon consideration of Defendant-Appellee Charleton J. Provost's (Provost) January 4, 2023 Motion to Dismiss [Plaintiff-Appellant Marisa Madison's (Madison)] Appeal From the Order on [Madison's] Motion and Affidavit for Post-Decree Relief Filed on April 27, 2022 (Motion), the papers in support, the record, and there being no opposition, it appears that:

(1) Madison defaulted on the original deadlines for the statement of jurisdiction and opening brief;

(2) On August 11, 2022, the appellate clerk entered a default notice informing Madison that the time for filing the statement of jurisdiction and opening brief had expired, the matter would be called to the court's attention on August 22, 2022, for appropriate action, which could include dismissal of the appeal, under Hawai'i Rules of Appellate Procedure (HRAP) Rules 12.1(e) and 30, and Madison could request relief from default by motion;

(3) On September 8, 2022, the court granted Madison's August 18, 2022 motion for relief from default and extended the deadline to file the statement of jurisdiction and opening brief

to October 3, 2022. The order states, "Any further default of the statement of jurisdiction or opening brief may result in sanctions authorized by HRAP 12.1(e) and 30, including, without limitation, monetary sanctions, the appeal being dismissed, or both";

(4) On September 27, 2022, Madison filed a motion for a second extension of time for the opening brief. Madison did not file the statement of jurisdiction or seek a corresponding extension of time;

(5) On September 29, 2022, the court granted in part the September 27, 2022 motion and extended the deadline for filing of the opening brief to November 2, 2022;

(6) Madison did not submit any additional filings after the court's order of September 29, 2022;

(7) In the Motion, Provost seeks to dismiss the appeal for failure to file the statement of jurisdiction and opening brief. Madison did not file a response; and

(8) Dismissal of this appeal is authorized under HRAP Rules 12.1(e) and 30.

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

DATED: Honolulu, Hawai'i, May 10, 2023.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Derrick H.M. Chan
Associate Judge