

NO. CAAP-22-0000697

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

BANK OF AMERICA, Plaintiff-Appellee, v.
DAVID K. BRAXTON, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT
WAILUKU DIVISION
(CASE NO. 2DRC-22-0000043)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that:

(1) On November 16, 2022, self-represented Defendant-Appellant David K. Braxton (Braxton) filed a Notice of Appeal and a request for the district court to waive the filing fee;

(2) On November 18, 2022, the district court denied the request for a fee waiver;

(3) The record on appeal was due on or before January 17, 2023, but was not filed because Braxton failed to pay the filing fee or obtain a fee waiver. Hawai'i Rules of Appellate Procedure (HRAP) Rules 3(a), 11(b)(2), 24;

(4) On January 18, 2023, the appellate clerk entered a default of the record on appeal, informing Braxton that the time to docket the appeal had expired, Braxton had not paid the filing fee or obtained an order allowing Braxton to proceed on appeal *in forma pauperis*, the matter would be brought to the court's attention on January 30, 2023, for action that may include dismissal of the appeal, and Braxton could seek relief from default by motion;

(5) Braxton took no further action in this 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, May 19, 2023.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Karen T. Nakasone
Associate Judge

/s/ Derrick H.M. Chan
Associate Judge