

**Electronically Filed
Intermediate Court of Appeals
CAAP-22-0000715
30-MAY-2023
03:15 PM
Dkt. 35 ODSD**

NO. CAAP-22-0000715

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

DARRYL CAILING; KAREN CAILING; LESLIE GORDON,
Plaintiffs-Appellees, v.
CHANDRA THOMAS; DAVID THOMAS, Defendants-Appellants

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(CIVIL NOS. 1DSS-22-0000698 and 1DSS-22-0000711 (consolidated))

ORDER DISMISSING APPEAL AND ORDER OF SANCTION
(By: Ginoza, Chief Judge, Wadsworth and Chan, JJ.)

Upon review of the record, it appears that:

- (1) On February 13, 2023, Defendants-Appellants Chandra Thomas and David Thomas (**Appellants**) moved for an extension of time to file requests for transcripts and a statement of jurisdiction (**Extension Request**), which were respectively due on or before December 9, 2022, and February 2, 2023. Hawai'i Rules of Appellate Procedure (**HRAP**) Rules 10(b) (1) (A) & 12.1(a);
- (2) On March 3, 2023, the court granted the Extension Request, but ordered Appellants' counsel, Barry L. Sooalo (**Sooalo**), to show cause, within 10 days of the order, as to why he failed to file timely requests for transcripts (**OSC**). The OSC further informed Sooalo that failure to timely respond or to show good cause may result in sanctions under HRAP Rule 51;
- (3) Sooalo failed to respond to the OSC;
- (4) Appellants' opening brief was due on a clerk's extension on or before April 5, 2023;

(5) Appellants failed to timely file the opening brief or request a further extension;

(6) On April 11, 2023, the appellate clerk entered a default notice informing Appellants that the time for filing the opening brief had expired, the matter would be called to the court's attention on April 17, 2023, for appropriate action, which could include dismissal of the appeal under HRAP Rule 30, and Appellants could request relief from default by motion; and

(7) Appellants took no further action in this appeal.

Therefore, IT IS HEREBY ORDERED that:

1. Under HRAP Rule 51, Barry L. Sooalo is sanctioned in the amount of \$50.00.

2. A check in the full amount, payable to the State Director of Finance, along with a copy of this order, shall be deposited with the Supreme Court Clerk's Office within ten (10) days from the date of this order.

3. A declaration by counsel attesting to the payment shall be filed within ten (10) days from the date of this order.

4. Failure to comply with this order may result in additional sanctions, including referral to the Office of Disciplinary Counsel.

5. In addition to electronic service, the appellate clerk shall mail a copy of this order to Sooalo at his address of record.

IT IS FURTHER ORDERED that the appeal is dismissed, under HRAP Rule 30, for failure to file the opening brief.

DATED: Honolulu, Hawai'i, May 30, 2023.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Derrick H.M. Chan
Associate Judge