

NO. CAAP-22-0000727

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

ALEJANDRO SCARPETTA, Plaintiff-Appellee, v.
DEANNA LEE, Defendant-Appellant

APPEAL FROM THE FAMILY COURT OF THE THIRD CIRCUIT
SOUTH KOHALA DIVISION
(CASE NO. 3DV15100237K)

ORDER FOR SANCTIONS AND ORDER GRANTING MOTION TO DISMISS
(By: Ginoza, Chief Judge, Wadsworth and Guidry, JJ.)

Upon consideration of Plaintiff-Appellee Alejandro Scarpetta's (Scarpetta) April 18, 2023 Motion to Dismiss Appeal, the papers in support, the record, and there being no opposition, it appears that:

(1) On March 10, 2023, the court ordered Defendant-Appellant Deanna Lee (Lee) to file, within five days, a civil appeal docketing statement (CADS), or a motion for an extension of time demonstrating good cause why she is unable to do so, and issued an order to show cause (OSC) to her counsel, Jamae K.K. Kawauchi (Kawauchi), to show cause, within ten days, why a CADS has not been filed;

(2) Lee did not file the CADS, or request an extension of time, even though the court cautioned Lee that failure to file the CADS may result in sanctions, including dismissal of the

appeal under Hawai'i Rules of Appellate Procedure (HRAP) Rule 3.1(f), and Kawauchi did not file a response to the OSC, even though the court cautioned Kawauchi that failure to timely respond or to show good cause may result in sanctions;

(3) Lee's statement of jurisdiction and opening brief were due on or before February 16, 2023, and March 20, 2023, respectively;

(4) Lee did not file either document or request an extension;

(5) On March 22, 2023, the appellate clerk entered a default notice informing Lee 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 April 3, 2023, for appropriate action, which could include dismissal of the appeal under HRAP Rules 12.1(e) and 30, and Lee could request relief from default by motion;

(6) Lee took no further action in the appeal; and

(7) On April 18, 2023, Scarpetta filed a Motion to Dismiss Appeal for failure to file the CADs, statement of jurisdiction, and opening brief, which Lee has not opposed.

Therefore, IT IS HEREBY ORDERED that:

1. Under HRAP Rule 51, Jamae K. K. Kawauchi 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. The sanction shall be paid by counsel personally and without reimbursement.

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

IT IS FURTHER ORDERED that the Motion to Dismiss Appeal is granted. The appeal is dismissed under HRAP Rules 3.1(f), 12.1(e), and 30, for failure to file a civil appeal docketing statement, statement of jurisdiction and opening brief.

DATED: Honolulu, Hawai'i, June 21, 2023.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Kimberly T. Guidry
Associate Judge