

NO. CAAP-22-0000586

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

HAWAIIAN RANCHOS ROAD MAINTENANCE CORPORATION,
Plaintiff/Counterclaim Defendant-Appellee, v. JERRY HALVORSEN;
JUDITH BOND, Defendants/Counterclaimants-Appellees, and
LARRY SHELTON; GEORGE CLINE; RAY RAQUINIO; JERRY FINE,
Defendants/Counterclaimants-Appellants, and
DOES 1-20, Defendants/Counterclaim Defendants

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIVIL NO. 3CC181000222)

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

Upon consideration of Plaintiff/Counterclaim Defendant-Appellee Hawaiian Ranchos Road Maintenance Corporation's (HRRMC) May 5, 2023 Motion to Dismiss Appeal With Prejudice (Motion), the papers in support, the record, and there being no opposition, it appears that:

(1) The opening briefs of self-represented Defendants-Counterclaimants-Appellants Larry Shelton (Shelton) and Jerry Fine (Fine) were due on clerk's extension on or before February 16, 2023;

(2) Shelton and Fine failed to file an opening brief or request another extension of time;

(3) On April 28, 2023, HRRMC filed a Stipulation For Dismissal of Appeal With Prejudice As to Defendants [Counterclaimants]-Appellants George Cline [(Cline)] and Ray Raquinio [(Raquinio)] (Stipulation), which the court construed as

a motion to dismiss the appeal as to Cline and Raquinio only, and granted on May 18, 2023;

(4) On May 5, 2023, HRRMC filed the instant Motion, seeking to dismiss the appeal with prejudice, because Cline and Raquinio signed the Stipulation, agreeing to dismiss their appeals, and Shelton and Fine had not filed their opening briefs or requested a further extension;

(5) The Motion is moot as to Cline and Raquinio because their appeals have already been dismissed by the court's May 18, 2023 order.

(6) On May 18, 2023, the appellate clerk entered a default notice informing Shelton and Fine that the time for filing the opening briefs had expired, the matter would be called to the court's attention on May 29, 2023, for appropriate action, which could include dismissal of the appeal, under Hawai'i Rules of Appellate Procedure (HRAP) Rule 30, and Shelton and Fine could request relief from default by motion; and

(7) Shelton and Fine took no further action in this appeal.

Therefore, IT IS HEREBY ORDERED that the Motion is granted in part and denied in part as follows:

1. The appeal is dismissed with prejudice as to Shelton and Fine, under HRAP Rule 30, for failure to file an opening brief.

2. All other requested relief is denied as moot.

DATED: Honolulu, Hawai'i, June 29, 2023.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Kimberly T. Guidry
Associate Judge