

**Electronically Filed
Intermediate Court of Appeals
CAAP-23-0000560
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NO. CAAP-23-0000560

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

MARSHALL MARTINEZ, Petitioner-Appellant, v.
SHANNON CLUNEY, WARDEN FOR HALAWA CORRECTIONAL FACILITY,
Respondent-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CASE NO. 1CPN-23-0000003)

ORDER DISMISSING APPEAL

(By: Leonard, Acting Chief Judge, Hiraoka and McCullen, JJ.)

Upon review of the record, it appears that:

(1) On February 28, 2024, the court granted self-represented Petitioner-Appellant Marshall Martinez's (Martinez) December 15, 2023 motion for relief from default of the record on appeal and ordered that within twenty days from the order, "Martinez shall file in the underlying case, 1CPN-23-0000003, a motion for leave to proceed on appeal *in forma pauperis*, consistent with Hawai'i Rules of Appellate Procedure (HRAP) Rule 24, or pay the filing fees in the full amount to the Supreme Court Clerk's Office." The court cautioned Martinez that failure to comply with the order may result in the appeal being dismissed;

(2) On October 9, 2024, the court granted Martinez's March 15, 2024 motion to clarify the February 28, 2024 order and ordered Martinez to comply with the February 28, 2024 order by October 29, 2024, or the appeal could be dismissed; and

(3) Martinez has not paid the filing fee or obtained a fee waiver for this appeal, resulting in no record on appeal

being filed. 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, November 1, 2024.

/s/ Katherine G. Leonard
Acting Chief Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Sonja M.P. McCullen
Associate Judge