

CONCURRING OPINION BY MOON, C.J.,
WITH WHOM NAKAYAMA J., JOINS

I concur with both the interpretation of the Hawai'i Rules of Appellate procedure and with the result reached by the majority. However, given that: (1) no constitutional issues were raised by the parties; (2) there is no controlling federal constitutional authority on point;¹ and (3) "[i]t is axiomatic that appellate courts should pass upon constitutional issues only where the case is such that a decision of such issues is unavoidable," State v. Kam, 68 Haw. 631, 635, 726 P.2d 263, 266 (1986), I do not interpret the majority's opinion as deciding any constitutional issues.

¹ The majority cites Bounds v. Smith, 430 U.S. 817 (1977); Wolff v. McDonnell, 418 U.S. 539 (1974); and Johnson v. Avery, 393, U.S. 483 (1969) in support of the proposition that requiring the plaintiff to produce the envelope indicating when he turned his notice of appeal to prison authorities "would deny Plaintiff meaningful access to the courts." Majority Op. at 16. I note that these cases, and the quotes cited therefrom, address prisoners' right to adequate legal resources and assistance in preparing habeas corpus and civil rights actions.