

NO. 23270

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

MAUI LAND & PINEAPPLE COMPANY, INC., a Hawai'i corporation,
Plaintiff/Counterclaim Defendant-Appellee

vs.

JOSEPH W. BERTRAM, Defendant/Counterclaimant-Appellant

APPEAL FROM THE SECOND CIRCUIT COURT
(CIV. NO. 99-0031(1))

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Ramil, and Acoba, JJ.)

Upon consideration of Plaintiff/Counterclaim Defendant-Appellee Maui Land & Pineapple Company's motion to dismiss the appeal of Defendant/Counterclaimant-Appellant Joseph W. Bertram, the papers in support and the records and files herein, it appears that: (1) Appellant Bertram is appealing from a decision issued by the Circuit Court of the Second Circuit, Honorable Artemio C. Baxa presiding, enjoining him from participating as a member of the Maui Planning Commission in a contested case hearing involving an SMA permit application submitted by Appellee Maui Land & Pineapple Company and considered by the Maui Planning Commission; (2) during the pendency of the appeal, Bertram's term of office as a member of the Maui Planning Commission expired and he is no longer a member of the Commission; and (3) inasmuch as Appellant Bertram is no longer a member of the Maui Planning

Commission, this court can offer no effective remedy, and this appeal is moot. See AIG Hawai'i Ins. Co. v. Bateman, 82 Hawai'i 453, 459, 923 P.2d 395, 401 (1996) (the mootness doctrine is properly invoked where events have so affected the relations between the parties that the two conditions for justiciability - adverse interest and effective remedy - have been compromised; the duty of the supreme court as of every judicial tribunal is to decide actual controversies by a judgment that can be carried into effect, and not to give opinions upon moot questions or abstract propositions or to declare principles or rules of law that cannot affect the matter at issue in the cause before it). Therefore,

IT IS HEREBY ORDERED that the motion to dismiss is granted, and this appeal is dismissed as moot.

Dated: Honolulu, Hawai'i, May 1, 2002.

William F. Crockett, of
Crockett Nakamura &
Schmidt, for Plaintiff/
Counterclaim Defendant-
Appellee Maui Land &
Pineapple Company, Inc.
on the motion

Judith E. Williams,
Deputy Corporation
Counsel, for Defendant/
Counterclaimant-
Appellant Joseph W.
Bertram in opposition