

NO. 25012

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

MEINI HAFOKA, aka WALLY HAFOKA, aka WORLI HAFOKA, Petitioner-
Appellant

vs.

STATE OF HAWAI'I, Respondent-Appellee

APPEAL FROM THE SECOND CIRCUIT COURT
(SPP NO. 01-1-0011)

ORDER DENYING MOTION FOR RECONSIDERATION

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

Upon consideration of the motion for reconsideration of the July 2, 2002 order dismissing appeal, the papers in support and the record, it appears that the January 23, 2002 letter from attorney Janet Miller to the Circuit Court of the Second Circuit was not filed with the circuit court and is not part of the record of SPP No. 01-1-0011. See HRAP 10(a)(1) ("The record on appeal shall consist of . . . the original papers filed in the court or agency appealed from[.]"). Even if the January 23, 2002 letter is part of the record of SPP No. 01-1-0011, the letter does not make a clear assertion of an intent to appeal the December 27, 2001 order denying the Rule 40 petition and it is not a sufficient notice of appeal. See Kalauli v. Lum, 57 Haw. 168, 552 P.2d 335 (1976). Moreover, it appears that attorney Miller did not intend the January 23, 2002 letter to be a notice of appeal from the December 27, 2001 order inasmuch as the order granting Miller's withdrawal as counsel, which was drafted by

Miller and filed on February 26, 2002, stated that there was no proceeding then pending for which appointment of substitute counsel was necessary. Therefore,

IT IS HEREBY ORDERED that the motion for reconsideration is denied.

DATED: Honolulu, Hawai'i, July 22, 2002.

Vickie Russell
for petitioner-appellant
on the motion