

NO. 26015

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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ROBERT JAMES FITZGERALD and DENA ODETTE FITZGERALD,  
Plaintiffs-Appellees

vs.

DANIEL O. HATCHIE, Defendant-Appellant

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APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
(CIV. NO. 1RC03-1-4345)

ORDER GRANTING PLAINTIFFS-APPELLEES ROBERT JAMES  
FITZGERALD AND DENA ODETTE FITZGERALD'S MOTION TO  
DISMISS APPEAL OF DEFENDANT-APPELLANT DANIEL O. HATCHIE  
(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon consideration of Plaintiffs-Appellees Robert James Fitzgerald and Dena Odette Fitzgerald's motion to dismiss the appeal of Defendant-Appellant Daniel O. Hatchie, the papers in support, and the records and files herein, it appears that:

(1) Appellant's opening brief was due on December 16, 2003;  
(2) the supreme court clerk's office informed Appellant the brief was in default and that the matter would be brought to the attention of the court for such action as the court deems proper and that the appeal may be dismissed; and (3) Appellant did not file the opening brief or seek relief from default and did not oppose the motion to dismiss the appeal. Therefore,

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

DATED: Honolulu, Hawai'i, January 30, 2004.

Howard Chu for  
plaintiffs-appellees  
on the motion