

NO. 28580

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee,

v.

FRANK J. SANTIAGO, Defendant-Appellant.

K. HAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

2007 NOV 16 PM 1:31

FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CR. NO. 01-1-2230)

ORDER(By: Nakamura, J., for the court¹)

Upon consideration of Defendant-Appellant Frank Santiago's document titled "Notice of Appeal" filed on November 9, 2007, the papers in support, and the records and files herein, it appears that: (1) on October 29, 2007, this court dismissed the appeal because Appellant failed to file the opening brief; (2) in the "Notice of Appeal" filed on November 9, 2007, Appellant asks this court for a notice of appeal from the order dismissing the appeal; thus, the court will consider it a motion for reconsideration of the dismissal order; (3) Appellant states he filed an opening brief for a writ of mandamus on September 14, 2007; (4) the document entitled "Writ of Mandamus for Entire Transcripts of Cr. No. 01-1-2130" filed by Appellant on September 14, 2007 is not an opening brief; (5) the Intermediate Court of Appeals has no jurisdiction or authority to issue a writ of

¹ Recktenwald, C.J., Watanabe and Nakamura, JJ.

mandamus, because a petition for a writ of mandamus is an original proceeding that must be filed in the supreme court. See HRAP Rule 21. Therefore,

IT IS HEREBY ORDERED that Appellant's "Notice of Appeal" from order dismissing appeal, which the court will review as a motion to reconsider the order dismissing the appeal for failure to file the opening brief, is denied.

DATED: Honolulu, Hawai'i, November 16, 2007.

FOR THE COURT:


Presiding Judge

