

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 28715

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
DONALD KAGAWA, Defendant-Appellant.

K. HAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2008 SEP 18 AM 10:00

FILED

APPEAL FROM THE DISTRICT COURT OF THE FIFTH CIRCUIT
(CASE NO. 5P106-00871)

ORDER DISMISSING APPEAL

(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon review of the record, we find as follows:

(1) On August 27, 2008, Defendant-Appellant Donald Kagawa (Appellant), proceeding pro se, filed a notice of appeal; (2) on February 26, 2008, this court remanded this case to the District Court of the Fifth Circuit (district court) to hear and determine a motion to withdraw as counsel; (3) while the case was in the district court on remand, Appellant informed the district court he wanted to proceed pro se and intended to withdraw this appeal; (4) on June 6, 2008, the district court granted the motion to withdraw and allowed Appellant to represent himself on appeal; (5) Appellant did not withdraw his appeal and did not file his opening brief; (6) on July 11, 2008, the appellate clerk notified Appellant at the address provided in the record that: (a) the time to file the opening brief expired; (b) the matter would be brought to the attention of the court on July 18, 2008 for such action as the court deems proper; and (c) the appeal may be dismissed pursuant to HRAP Rule 30; (7) the letter was returned as undeliverable; (8) on July 30, 2008, after obtaining another address for Appellant, the appellate clerk notified Appellant that the time to file the opening brief expired and that the matter

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

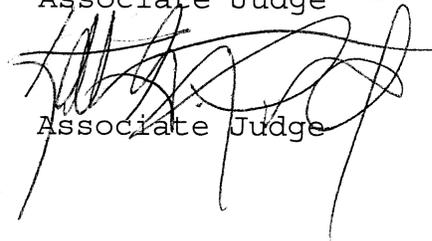
would be brought to the attention of the court on August 6, 2008 and the appeal may be dismissed; and (9) that letter was returned to the court as undeliverable with a notation that Appellant was not at the address. Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed.

DATED: Honolulu, Hawai'i, September 18, 2008.


Daniel R. Foley
Presiding Judge


Associate Judge


Associate Judge