

NO. 29787

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

HEATHER WEHRLE, Petitioner-Appellee,

v.

AVERY RAY CHESSER, Respondent-Appellant

APPEAL FROM THE FAMILY COURT OF THE THIRD CIRCUIT
(FC-DA NO. 08-1-0418K)

ORDER DENYING NOVEMBER 3, 2009 MOTION FOR
RECONSIDERATION OF THE OCTOBER 23, 2009 ORDER OF DISMISSAL
(By: Nakamura, C.J., Watanabe and Leonard, JJ.)

Upon review of (1) the October 23, 2009 order dismissing this appeal for lack of jurisdiction, (2) Respondent-Appellant Avery Ray Chesser's (Appellant Chesser) November 3, 2009 (filed ex officio¹ on November 2, 2009) motion for reconsideration of the October 23, 2009 order of dismissal pursuant to Rule 40 of the Hawaii Rules of Appellant Procedure (HRAP), and (3) the record, it appears that we have not overlooked or misapprehended any points of law or fact, and, thus, Appellant Chesser's November 3, 2009 HRAP Rule 40 motion for reconsideration lacks merit. Accordingly,

¹ Pursuant to Rule 25 of the Hawaii Rules of Appellate Procedure (HRAP), Hawaii Revised Statutes (HRS) § 606-1(b) (1993); HRS § 606-8 (1993), the ex officio filing date of any document prevails over the file-stamped date to the extent that the dates differ from each other.

IT IS HEREBY ORDERED that Appellant Chesser's
November 3, 2009 HRAP Rule 40 motion for reconsideration of the
October 23, 2009 order of dismissal is denied.

DATED: Honolulu, Hawaii, November 9, 2009.

Chief Judge

Associate Judge

Associate Judge