

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 27170

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

RICHARD BLAISDELL, Plaintiff-Appellant, v.
DEPARTMENT OF PUBLIC SAFETY, Defendant-Appellee

NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAII

2006 JUL 26 AM 9:57

FILED

APPEAL FROM THE CIRCUIT COURT OF THE CIRCUIT COURT
(CIVIL NO. 04-1-1455)

SUMMARY DISPOSITION ORDER

(By: Burns, C.J., Lim and Foley, JJ.)

Plaintiff-Appellant pro se Richard Blaisdell

(Blaisdell) appeals from the Final Judgment filed on February 22, 2005 in the Circuit Court of the First Circuit^{1/} (circuit court). In its Order Dismissing Case for Non-Payment of Fees filed on August 30, 2004, the circuit court dismissed Blaisdell's complaint without prejudice for his failure to pay the filing fee.

Blaisdell, an inmate housed in Mississippi, filed a complaint in the circuit court against the Department of Public Safety (DPS). The complaint challenged a DPS rule that places a portion of an inmate's prison earnings into a restricted account. Blaisdell alleged that the restriction of earnings amounts to a garnishment of monies not authorized by Hawaii Revised Statutes (HRS) § 353-22.5 (Supp. 2005) (authorizing garnishment of

^{1/} The Honorable Sabrina McKenna presided.

inmates' monies for certain purposes) and sought a judgment declaring the restriction rule to be violative of § 353-22.5.

Blaisdell's complaint was accompanied by a request to proceed in forma pauperis. The circuit court denied the request to proceed in forma pauperis on grounds that the complaint did not assert a deprivation of constitutional rights and was devoid of merit. The clerk then issued a Notice for Payment of Fees, directing Blaisdell to remit filing fees of \$275 and advising him that the failure to do so might result in dismissal of his complaint.

Blaisdell did not remit the filing fees. Consequently, an Order Dismissing Case for Nonpayment of Fees, without prejudice, was entered by the clerk on August 30, 2004. The order was reduced to a Hawai'i Rules of Civil Procedure Rule 58 separate Final Judgment, which was filed on February 22, 2005.

Blaisdell timely appealed.

On appeal, Blaisdell contends the circuit court abused its discretion by denying him the opportunity to proceed in forma pauperis.^{2/}

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to

^{2/} In a June 20, 2005 letter to the Hawai'i Supreme Court, the Department of the Attorney General stated that it was not filing an answering brief because the issues raised on appeal did not involve the Department of Public Safety (DPS) as the DPS had never been served with a complaint nor made an appearance in the underlying action.

the arguments advanced and the issues raised by the parties, we hold that Blaisdell's appeal is without merit.

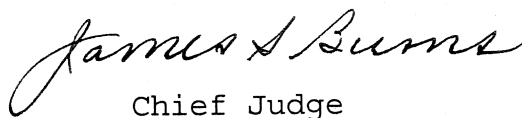
Therefore,

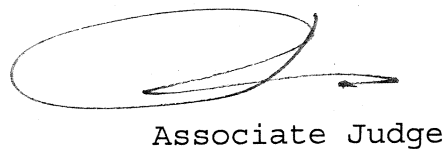
The Final Judgment filed on February 22, 2005 in the Circuit Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, July 26, 2006.

On the briefs:

Richard Blaisdell,
Plaintiff-Appellant pro se.


Chief Judge


Associate Judge


Associate Judge