

NO. 27026

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

BENJIE W. KAPUNIAI, SR., Petitioner-Appellee, v.
SONNY GAY and JANE GAY, Respondents-Appellants
(Civ. No. 1SS04-1-1101)

and

LARRY BLANKO, Petitioner-Appellee, v.
SONNY GAY and JANE GAY, Respondents-Appellants
(Civ. No. 1SS04-1-1100)

APPEAL FROM THE DISTRICT OF THE FIRST CIRCUIT
HONOLULU DIVISION

SUMMARY DISPOSITION ORDER

(By: Recktenwald, C.J., Nakamura and Fujise, JJ.)

Respondents-Appellants Sonny Gay and Jane Gay (Gays) appeal from the November 16, 2004 order dismissing Petitioners-Appellees Benjie W. Kapuniai, Sr. (Kapuniai) and Larry Blanko's (Blanko) (collectively Petitioners) petitions with prejudice entered by the District Court of the First Circuit Honolulu Division¹ (district court). This appeal stems from the district court's denial of the Gays' request for attorneys' fees and costs following the dismissal of Kapuniai and Blanko's petitions for injunction against harassment.

After a careful review of the issues raised, arguments advanced, law relied upon, and the record in the instant case, we dispose of Gays' appeal as follows:

1. The Gays have not shown the district court abused its discretion when it denied the Gays' request for attorneys' fees. Hawaii Revised Statutes § 604-10.5 (Supp. 2006) authorizes, but does not mandate, the award of attorneys' fees and costs in temporary restraining order injunction cases. Here,

¹ The Honorable Gerald H. Kibe presided.

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the district court properly exercised its discretion when it heard both parties' arguments as to the issue of attorneys' fees, and denied the Gays' request in light of their failure to establish circumstances justifying an award of fees. Cf. State v. Martin, 56 Haw. 292, 294, 535 P.2d 127, 128 (1975).

Therefore,

IT IS HEREBY ORDERED that the November 16, 2004 Order Dismissing Petitioners' Petitions With Prejudice of the District Court of the First Circuit Honolulu Division is affirmed.

DATED: Honolulu, Hawai'i, October 18, 2007.

On the briefs:

Scot S. Brower
for Respondent-Appellant.



Chief Judge

Christopher Shea Goodwin
for Petitioner-Appellee.



Associate Judge



Associate Judge