

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

Wellington Yee Yun Pang and)	1:12-CV-00097-DAE-BMK
Andrea Janet Pang,)	
)	
Plaintiff(s),)	
)	
vs.)	
)	
Kwang Sok Yi,)	
)	
Defendant(s).)	
_____)	

**ORDER DECLINING TO ADOPT THE MAGISTRATE’S FINDINGS AND
RECOMMENDATION TO DENY PLAINTIFFS’ MOTION
FOR EXPEDITED RECONSIDERATION**

On February 16, 2012, Plaintiffs Wellington Yee Yun Pang and Andrea Janet Pang, proceeding pro se, commenced this action and filed an Application To Proceed Without Prepayment of Fees or Costs (“Application”). (Doc. # 3.) On February 27, 2012, United States Magistrate Judge Barry M. Kurren denied Plaintiffs’ Application because it was “incomplete and fail[ed] to provide the Court with enough information to determine if Plaintiffs financially qualify to proceed in forma pauperis.” (Doc. # 4.). However, the Court granted Plaintiffs leave to file another Application or to remit the appropriate filing fee by March 20, 2012. (Id.) Plaintiffs did not file another Application To Proceed Without Prepayment of Fees or Costs or pay the filing fee for the case by the deadline. On March 23, 2012, Magistrate Judge Kurren issued a Findings and

Recommendation that the action be dismissed for failure to pay the filing fee.

(Doc. # 6.) On April 18, 2012, having received no objections, this Court issued an Order Adopting the Findings and Recommendation (doc. # 7), and the Court Clerk entered Judgment dismissing the action.

On May 21, 2012, Plaintiffs filed a Motion for Expedited Reconsideration of the Judgment. (Doc. # 9.) On May 30, 2012, Magistrate Judge Kurren filed the instant Findings and Recommendation to Deny Plaintiffs' Motion for Expedited Reconsideration, stating that Plaintiffs provide no basis for reconsidering the Court's entry of Judgment. (Doc. # 10.)

The Court agrees that Plaintiffs have not clearly provided a basis for reconsideration,¹ and notes that no objections to the Findings and Recommendation to Deny Plaintiffs' Motion for Expedited Reconsideration have been timely filed. However, upon review of the record, the Court finds that Plaintiffs were not provided notice that failure to timely refile an Application or pay the filing fee would result in dismissal of their action. Therefore, the Court declines to adopt the Magistrate's Findings and Recommendation to Deny Plaintiffs' Motion for Expedited Reconsideration and sets aside the Judgment dismissing the action.

¹ In their Motion for Expedited Reconsideration, Plaintiffs state without elaborating that "[t]he U.S. DISTRICT COURT OF HAWAII DID NOT SEND ANY MAIL AND PLAINTIFF DID NOT RECEIVE ANY MAIL." However, the court docket reflects Certificate of Service for all Court orders and Findings and Recommendations in this case.

Plaintiffs have until July 2, 2012 to remit the appropriate filing fee or refile a complete Application to Proceed Without Prepayment of Fees or Costs. Failure to do so may result in a dismissal of this action with prejudice.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, June 20, 2012.





David Alan Ezra
United States District Judge