

NO. 30007

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

IN THE INTEREST OF A.B., III

FILED
2010 JAN 28 AM 8:01
E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAII

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-J NO. 0071480)

ORDER GRANTING DECEMBER 28, 2009 MOTION TO DISMISS APPEAL
(By: Nakamura, Chief Judge, Foley and Leonard, JJ.)

Upon review of (1) the December 28, 2009 motion to dismiss the instant appeal (No. 30007) filed by Deputy Public Defender Taryn R. Tomasa (Tomasa), counsel for A.B., III (A.B.), Minor-Appellant; (2) the lack of any response by Petitioner-Appellee State of Hawaii; and (3) the record, it appears that although we have appellate jurisdiction over A.B.'s appeal from the Honorable Karen M. Radius's July 16, 2009 decree adjudicating A.B. as a law violator within the purview of Hawaii Revised Statutes (HRS) § 571-11(1) (2006) as to the crime of Harassment, in violation of HRS § 711-1106 (Supp. 2008), Tomasa, declares in a supporting declaration that it appears A.B. has abandoned No. 30007, and, thus, Tomasa prays that we dismiss No. 30007 pursuant to Rule 42(b) of the Hawaii Rules of Appellate Procedure (HRAP). According to Tomasa's declaration, she has made diligent efforts to communicate with A.B. by way of telephone, certified mail, and A.B.'s mother in order to discuss whether A.B. wants to obtain appellate review of the July 16, 2009 decree. Tomasa declares that A.B. has not responded to her communications regarding the issue of No. 30007. Despite diligent efforts, Tomasa has also been unable to locate A.B. for the purpose of obtaining A.B.'s affidavit or declaration that reflects A.B.'s knowing and intelligent understanding of the consequences of the dismissal of No. 30007 and that A.B. is

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voluntarily making the withdrawal of No. 30007. Therefore, it appears that Tomasa has complied with the requirements under HRAP Rule 42(c) for the dismissal of No. 30007 pursuant to HRAP Rule 42(b). Accordingly,

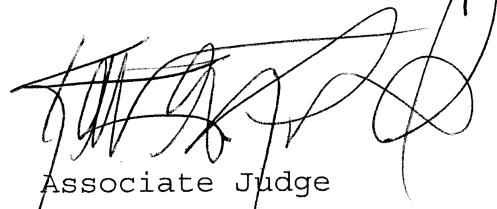
IT IS HEREBY ORDERED that the December 28, 2009 motion by Tomasa to dismiss No. 30007 is granted, and appeal No. 30007 is dismissed.

DATED: Honolulu, Hawai'i, January 28, 2010.

On the motion:
Taryn R. Tomasa,
Deputy Public Defender,
for A.B., III, Minor-Appellant.


Chief Judge


Associate Judge


Associate Judge