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NO. CAAP-20-0000467

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

JASON SCUTT, Plaintiff-Appellant,
v.
KELLY DORRIS aka BEATRIZ NUNEZ, Defendant-Appellee

APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT
(CASE NO. 2DRC-20-0000933)

SUMMARY DISPOSITION ORDER

(By: Leonard, Presiding Judge, Wadsworth and Nakasone, JJ.)

Self-represented Plaintiff-Appellant Jason Scutt (**Scutt**), appeals from the November 25, 2020 Order Dismissing Without Prejudice entered by the District Court of the Second Circuit, Wailuku Division (**District Court**).¹

We first note that Scutt's opening brief does not comply with Rule 28 of the Hawai'i Rules of Appellate Procedure (**HRAP**). Nevertheless, to promote access to justice, the Hawai'i Supreme Court instructs that pleadings prepared by self-represented litigants should be interpreted liberally, and self-represented litigants should not be automatically foreclosed from

¹ The Honorable Kirstin M. Hamman presided.

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appellate review because they fail to comply with court rules. Erum v. Llego, 147 Hawai'i 368, 380-81, 465 P.3d 815, 827-28 (2020). Accordingly, we address Scutt's appeal on the merits to the extent feasible and practicable.

Upon careful review of the record, and for the reasons explained below, we affirm.

On June 25, 2020, Scutt filed a civil complaint in the District Court against Defendant-Appellee Kelly Dorris, also known as Beatriz Nunez (**Nunez**).²

Nunez was served on Tuesday, July 7, 2020. The return of service was filed in the District Court on July 16, 2020. Scutt was electronically notified of the filing of the return of service.

Pursuant to the information stated in the summons, the return date was Monday, July 20, 2020.³ However, the District Court's minutes indicate: Scutt was not present; Nunez was not present; and the case was dismissed without prejudice.⁴

Scutt's Notice of Appeal was filed on July 21, 2020. On October 21, 2020, we temporarily remanded the case to the District Court for entry of a written order as required by Hawaii

² The original complaint named Defendant as "B. Nunez." On July 8, 2020, Scutt filed a Supplemental Memorandum updating Defendant's full name as "KELLY DORRIS AKA 'BEATRICE NUNEZ.'" (Capitalization in original).

³ Page 2 of the summons identified the Wailuku Division as the location for the return, and the return day as "8:30 a.m. on the second **Monday** following date of service, and should that **Monday** be a legal holiday then upon the next **Monday**." (Bolding in original).

⁴ Scutt did not request a transcript of court proceedings in this appeal, contrary to HRAP Rule 10(b)(1)(A), which states in pertinent part:

When an appellant desires to raise any point on appeal that requires consideration of the oral proceedings before the court appealed from, the appellant shall file with the appellate clerk, within 10 days after filing the notice of appeal, a request or requests to prepare a reporter's transcript of such parts of the proceedings as the appellant deems necessary that are not already on file in the appeal.

As no transcript is available, we have reviewed the District Court's minutes.

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Revised Statutes (HRS) § 641-1(a) (2016), pursuant to Waikiki v. Ho'omaka Vill. Ass'n of Apartment Owners, 140 Hawai'i 197, 204, 398 P.3d 786, 793 (2017). The Order Dismissing Without Prejudice was entered by the District Court on November 25, 2020. Scutt's notice of appeal is deemed to have been filed at that time. HRAP Rule 4(a)(2).

Scutt's opening brief presents no argument about why the District Court's dismissal without prejudice was improper. The District Court had inherent power to dismiss the case for want of prosecution. See Compass Dev., Inc. v. Blevins, 10 Haw. App. 388, 393, 876 P.2d 1335, 1338 (1994); HRS § 604-7(e) (2016).

Therefore, IT IS HEREBY ORDERED that the Order Dismissing Without Prejudice, filed on November 25, 2020, in the District Court of the Second Circuit, Wailuku Division, is affirmed.

DATED: Honolulu, Hawai'i, June 24, 2021.

On the brief:

Jason Scutt,
Plaintiff-Appellant

/s/ Katherine G. Leonard
Presiding Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Karen T. Nakasone
Associate Judge