

**Electronically Filed
Intermediate Court of Appeals
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NO. CAAP-21-000026

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

LUISA KUHLMANN, Petitioner-Appellee, v.
JOHN T. BURGESS, Respondent-Appellant

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-DA NO. 19-1-002156)

ORDER DISMISSING APPEAL

(By: Ginoza, Chief Judge, Fujise and Wadsworth, JJ.)

Upon review of the record, it appears that:

(1) On January 20, 2021, self-represented Respondent-Appellant John T. Burgess (Burgess) filed the notice of appeal without the fees required by Hawai'i Rules of Appellate Procedure (HRAP) Rule 3(a). The same day, Burgess filed in the underlying case, FC-DA No. 19-1-002156, what the family court construed as a motion for leave to proceed on appeal *in forma pauperis*;

(2) On February 11, 2021, the family court denied the motion for leave to proceed on appeal *in forma pauperis* without prejudice to Burgess seeking relief in this court;

(3) The record on appeal was due on or before March 22, 2021. See HRAP Rules 11(b)(1) & 26(a);

(4) On April 6, 2021, the appellate clerk entered a default of the record on appeal, informing Burgess that the time to docket the appeal had expired, he had not paid the filing fee or obtained an order allowing him to proceed on appeal *in forma pauperis*, the matter would be brought to the court's attention on April 16, 2021, for action that may include dismissal of the appeal, and he could seek relief from default by motion;

(5) On May 17, 2021, Burgess filed what this court construed as a motion for leave to proceed on appeal *in forma pauperis*, and a request for "an expansion of time" "to file remaining documents";

(6) On May 25, 2021, the court found that Burgess failed to submit information required by HRAP Form 4, consistent with HRAP Rule 24(a). The court denied the request for leave to proceed on appeal *in forma pauperis* without prejudice to Burgess, within ten days from the order, either (a) filing in this case a motion for leave to proceed on appeal *in forma pauperis* that complies with HRAP Rule 24(a) and provides the information in Form 4, or (b) paying the filing fees in the full amount to the Supreme Court Clerk's Office. The court cautioned Burgess that failure to file the motion for leave to proceed on appeal *in forma pauperis* or pay the filing fees may result in the appeal being dismissed. See HRAP Rule 24(c). Further, the court denied Burgess's request for "an expansion of time" "to file remaining documents" because the requested relief was unclear;

(7) Burgess took no further action in this appeal; and

(8) An appeal may be dismissed where the record on appeal has not been prepared because the appellant failed to pay the required fees or obtain an order allowing the appellant to proceed *in forma pauperis*. HRAP Rule 11(b)(2), (c)(2).

Therefore, IT IS HEREBY ORDERED that the appeal is dismissed.

DATED: Honolulu, Hawai'i, June 9, 2021.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Alexa D.M. Fujise
Associate Judge

/s/ Clyde J. Wadsworth
Associate Judge