

NO. 23471

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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STATE OF HAWAI'I, Plaintiff-Appellee

vs.

MARK ANDREW BENSON, Defendant-Appellant

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APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT  
(CASE NO. TR1 of 4/20/2000)

ORDER DISMISSING APPEAL

Upon review of the record, it appears that:

(1) Defendant-Appellant Mark Andrew Benson's opening brief was due September 29, 2000; (2) when Appellant did not file the opening brief, the supreme court clerk's office informed Appellant on October 13, 2000 that the brief was in default and that the matter would be brought to the attention of the court for such action as the court deemed appropriate, including dismissal, and that any request for relief from default should be by motion; (3) Appellant did not seek relief from the default; (4) on November 9, 2000, this court issued an order directing Appellant to file the opening brief or an appropriate dismissal of the appeal within thirty days and directing Appellant's attorney, Richard Icenogle, Esq., to show cause as to why he should not be sanctioned for failing to file the opening brief; (5) Appellant did not file the opening brief or an appropriate

dismissal, and Mr. Icenogle did not respond to the order to show cause; (6) on December 19, 2000, this court issued an order directing Appellant to file the opening brief within ten days and sanctioning Mr. Icenogle for failing to respond to the OSC and failing to file the opening brief; (7) the December 19, 2000 order further stated that failure to comply with the order would result in further sanctions, including dismissal; (8) Appellant did not file the opening brief; and (9) pursuant to HRAP Rule 30, an appeal may be dismissed for failure to file an opening brief. Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed pursuant to HRAP Rule 30.

DATED: Honolulu, Hawai'i, January 26, 2001.