

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 26554

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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GARY BROWN, Petitioner-Appellant

vs.

STATE OF HAWAI'I, Respondent-Appellee

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APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
(S.P.P. NO. 02-1-0086)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon review of the record, it appears that (1) the supreme court clerk's office informed Appellant, by letter dated July 12, 2004, that the record on appeal cannot be filed without payment of the filing fee pursuant to Rule 3(f) of the Hawai'i Rules of Appellate Procedure (HRAP) or an executed motion to proceed in forma pauperis pursuant to HRAP Rule 24 and that the matter would be called to the attention of the court for such action as the court deemed proper pursuant to HRAP Rule 11(a), including dismissal of the appeal; and (2) appellant failed to pay the filing fee or submit a motion to proceed in forma pauperis. Therefore,

IT IS HEREBY ORDERED that the appeal is dismissed.

DATED: Honolulu, Hawai'i, October 13, 2004.