

NO. 26502

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

DANIEL M. FINLEY, Claimant-Appellant

vs.

KA'U SUGAR COMPANY and FIRST INSURANCE COMPANY OF HAWAII, LTD.,
Employer/Insurance Carrier-Appellee

APPEAL FROM THE LABOR AND INDUSTRIAL RELATIONS APPEALS BOARD
(CASE NO. AB 2003-076(WH) (9-95-01645 HILO))

ORDER GRANTING EMPLOYER-APPELLEE KA'U SUGAR COMPANY AND
INSURANCE CARRIER-APPELLEE FIRST INSURANCE COMPANY OF HAWAII
LTD.'S MOTION TO DISMISS APPEAL FOR FAILURE TO PROSECUTE
(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon consideration of Employer-Appellee Ka'u Sugar Company and Insurance Carrier-Appellee First Insurance Company of Hawaii, Ltd.'s motion to dismiss the appeal of Claimant-Appellant Daniel M. Finley for failure to prosecute the appeal, the papers in support, and the records and files herein, it appears that:

(1) Appellant's opening brief was due September 15, 2004; (2) on October 1, 2004, the supreme court clerk's office informed Appellant that the brief was in default and that the matter would be brought to the attention of the court and the appeal could be dismissed; (3) Appellant did not file the opening brief or seek relief from default; (4) on October 20, 2004, Appellees moved to dismiss this appeal due to Appellant's failure to file the opening brief; and (5) Appellant did not respond to the motion or otherwise oppose dismissal. Therefore,

IT IS HEREBY ORDERED that the motion to dismiss is granted, and this appeal is dismissed pursuant to HRAP Rule 30.

DATED: Honolulu, Hawai'i, November 12, 2004.

Lance S. Au
for employer/insurance
carrier-appellee on
the motion