

Electronically Filed
Supreme Court
SCWC-16-0000315
02-SEP-2016
09:35 AM

SCWC-16-0000315

IN THE SUPREME COURT OF THE STATE OF HAWAII

LARRY BOSWORTH, Petitioner/Claimant-Appellant,

vs.

FOSS MARITIME COMPANY, Respondent/Employer-Appellee,

and

ACCLAIM RISK MANAGEMENT, Respondent/Insurance Carrier-Appellee.

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(CAAP-16-0000315; AB 2014-352; DCD NO. 2-14-03204)

ORDER (1) ACCEPTING APPLICATION FOR WRIT OF CERTIORARI,
(2) VACATING THE ICA'S JULY 6, 2016 ORDER DISMISSING THE APPEAL,
(3) REMANDING THE CASE TO THE ICA, AND (4) DISMISSING THE
MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

(By: Recktenwald, C.J., McKenna, Pollack, and Wilson, JJ.,
with Nakayama, J., dissenting)

On July 19, 2016, petitioner/claimant-appellant Larry Bosworth filed an application for writ of certiorari and a motion for leave to proceed in forma pauperis. Upon consideration of the documents and record in this matter, it appears that petitioner may not have been aware that his appeal was docketed in the Intermediate Court of Appeals ("ICA") and may not have received a copy of the "Default of Record on Appeal (ND1)," filed on June 6, 2016. Accordingly,

IT IS HEREBY ORDERED as follows:

(1) The application for writ of certiorari is accepted. The ICA's July 6, 2016 "Order Dismissing the Appeal Pursuant to HRAP 11(b)(2), (c)(2)" is vacated and the appeal is remanded to the ICA.

(2) The motion for leave to proceed in forma pauperis is dismissed without prejudice to petitioner seeking relief in the ICA, as appropriate.

(3) On or before September 30, 2016, petitioner shall pay the required filing and docketing fees for the appeal or obtain an order to proceed in forma pauperis in the appeal. Failure to comply may result in the ICA dismissing the appeal.

(4) The appellate clerk shall serve a copy of this order on petitioner at his last known mailing address provided in the record of this case.

(5) Petitioner shall keep the court apprised in writing of any changes in his mailing address.

DATED: Honolulu, Hawai'i, September 2, 2016.

/s/ Mark E. Recktenwald
/s/ Sabrina S. McKenna
/s/ Richard W. Pollack
/s/ Michael D. Wilson

