

**Electronically Filed
Intermediate Court of Appeals
CAAP-18-0000084
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NO. CAAP-18-0000084

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

JAMES LIBERO, Petitioner-Appellant,
v.
STATE OF HAWAI'I, Respondent-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(S.P.P. NO. 17-1-0017(2))

ORDER
(By: Hiraoka, J., for the court¹)

Upon consideration of the documents filed by self-represented Petitioner-Appellant James K. Libero (Libero) titled "Before Final Judgement: Libero's Opportunity to be Heard," received by the appellate clerk and electronically filed July 18, 2019, "Libero's Real Confession," received by the appellate clerk and electronically filed July 22, 2019, "Regarding," received by the appellate clerk and electronically filed August 12, 2019, and "Regarding To: A Civil Right Action 42 U.S.C. 1983 Rule 38 Jury Trial of Right," received by the appellate clerk and electronically filed August 26, 2019, the papers in support, and the record, it appears that:

(1) Under the prison mailbox rule, an inmate's document is deemed filed with the court upon delivery to prison officials for mailing. Setala v. J.C. Penney Co., 97 Hawai'i 484, 488-89, 40 P.3d 886, 890-91 (2002);

¹

Ginoza, Chief Judge, Chan and Hiraoka, JJ.

(2) The envelope containing the document electronically filed July 18, 2019, indicates prison officials received the envelope from Libero on July 12, 2019. Therefore, Libero effectively filed the document on July 12, 2019;

(3) In the document, Libero seeks reconsideration of the summary disposition order, filed June 27, 2019;

(4) A motion for reconsideration of the summary disposition order was due on or before July 8, 2019. See Hawai'i Rules of Appellate Procedure (HRAP) Rules 26(a) (eff. 2010) & 40(a) (eff. 2000);

(5) The document delivered to prison officials for mailing on July 12, 2019 is untimely as a motion for reconsideration;

(6) The court construes the documents electronically filed on July 22, 2019, August 12, 2019, and August 26, 2019 to also be motions for reconsideration of the summary disposition order, filed June 27, 2019;

(7) Libero is only entitled to one motion for reconsideration. See HRAP Rule 40(e) (eff. 2000);

Therefore, IT IS HEREBY ORDERED that the motion for reconsideration electronically filed July 18, 2019, is dismissed as untimely, and the motions for reconsideration electronically filed on July 22, 2019, August 12, 2019, and August 26, 2019 are dismissed as impermissible successive motions for reconsideration.

DATED: Honolulu, Hawai'i, October 2, 2019.

Tina W. King
Chief Judge

Denelle C. Chan
Associate Judge

Keith K. Hiraoka
Associate Judge