

IN THE
SUPREME COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

CANDIDO B. AGUON,
Plaintiff/Appellee,

v.

ESTRELLA B. AGUON,
Defendant/Appellant.

Supreme Court Appeal No. CV 06-0026-GA, 2007 MP 2
Superior Court FCD No. 06-0014

ORDER OF DISMISSAL FOR FAILURE TO PROSECUTE
[Com.R.App.P.42(c)]

¶1 It appears from a review of the docket in this case that the record and transcript of proceedings from the Superior Court have not been filed with the Clerk of the Supreme Court and is significantly overdue.

¶2 Appellee filed a Motion to Dismiss the appeal on August 25, 2006, based on the failure to file the record and transcript in a timely fashion.

¶3 The Clerk of the Supreme Court gave notice to counsel on November 20, 2006, that the record and transcript needed to be filed with the Clerk of the Supreme Court or the case would be referred for dismissal. Appellant responded on December 6, 2006 that he would expeditiously cause the record to be filed or seek additional time for the record to be filed.

¶4 On December 18, 2006, the Clerk of the Supreme Court issued a second notice to counsel to cause the record and transcript to be filed with the Supreme Court on or before February 6, 2007, or the matter would be referred to the Court for dismissal.

¶5 As of the date of this Order, no record or transcript of proceedings from the Superior Court has been certified and filed with the Clerk of the Supreme Court regarding this matter, nor has Appellant sought any further extension of time to file the record or transcript of proceedings.

¶6 Under the Commonwealth Rules of Appellate Procedure, Rule 42 (c), the ultimate responsibility for ensuring that the record (including transcript) is filed on time is that of the Appellant. One of the sanctions available under that rule for failure of the Appellant to cause the record to be filed in a timely fashion is dismissal of the appeal. If a record or transcript cannot be completed or filed within a timely fashion, then it is the Appellant's obligation to bring this matter to the Supreme Court's attention through the filing of appropriate motions for extension of time to file the record and transcript. It should not be the burden of the Clerk of the Supreme Court to have to remind appellate counsel of the lack of a properly and timely filed record and transcript.

¶7 Having determined that the record and transcript of proceedings have not been certified and filed with the Clerk of the Supreme Court in a timely fashion and no request for

extension of time has been made, the Court now DISMISSES this appeal for failure to prosecute in accordance with Com. R. App. P. Rule 42 (c). *Villagomez v. Sablan*, 4 N.M.I. 396 (1996).

¶8 Counsel is further advised that Com. R. App. P. 42 (c) allows for additional sanctions to be imposed for failure to prosecute an appeal and that the Court will consider those in the future against any counsel who fail to timely cause the record of an appeal to be timely filed.

SO ORDERED this 13th day of February, 2007.

/s/ Miguel S. Demapan
MIGUEL S. DEMAPAN
Chief Justice

/s/ Alexandro C. Castro
ALEXANDRO C. CASTRO
Associate Justice

/s/ John A. Manglona
JOHN A. MANGLONA
Associate Justice