

IN THE SUPREME COURT OF GUAM
TERRITORY OF GUAM

REPUBLIC OF NAURU (GUAM), INC.,
a Guam Corporation
Plaintiff-Appellee

vs.

ANGELO MASTROBATTISTA,
Defendant-Appellant.

Supreme Court Case No. CVA96-003
Superior Court Case No. CV400-94
Filed: January 14, 1997
Cite as: 1997 Guam 1

DISMISSAL ORDER

[1] This matter was heard on December 19, 1996 on an Order to Show Cause why the appeal in this matter should not be dismissed. The circumstances preceding that Order included the Appellant's attempt, on 10 October 1996, to file a grossly deficient Opening Brief after its due date. The one page "Notice of Brief" presented a bald argument unsupported by either legal authority or record references, and failed to address the technical requirements of a brief under applicable rules. On October 11, 1996 the Clerk of this Court noticed the Appellant by letter of the many serious deficiencies in the Brief, provided him with a copy of this Court's Rules of Appellate

Procedure, and advised him generally of how, if he wished to proceed on the appeal, he would need to prepare a conforming Brief and move the Court for leave to submit it late.

[2] Between October 11 and December 19, 1996 the Appellant filed nothing in this matter. At the hearing on the latter date, the Appellant appeared as ordered and made some explanation to the Court. He acknowledged that he had received the letter from the Clerk but claimed that the Rules of Appellate Procedure, though referenced in the letter, were not attached. He did not explain why, if that were true, he

made no effort to otherwise obtain a
[3] In explaining why he had not attempted to file any corrected Brief with the Court, the Appellant asserted, in contradiction to the Clerk's letter (and the "Brief" which is part of this Court's record herein) that the document's only failing was the color of the cover and that he did not re-file it in the appropriate red enclosure because "there was no red paper on the island of Guam", or words to that effect.

[4] Under the present circumstances I must conclude that, not only has the Appellant failed to meet the requirements of Rules 13, 15, 16 and 17 of the Rules of Appellate Procedure, he has failed to prosecute this appeal with the alacrity which good faith requires. In reaching this conclusion I have taken into consideration that the Appellant is proceeding *pro se*. However, given that the Appellant failed to avail himself of the assistance which the

copy.

Clerk provided, and was apparently less than candid with the Court in explaining his continuing inaction on this appeal, his *pro se* status fails to mitigate his neglect.

[5] Pursuant to Rules 17(d) and 28(a), as authorized by 7 GCA '3104(b), the appeal in this matter is DISMISSED for failure to timely file the Opening Brief and for failure to prosecute such appeal in accordance with the Rules of Appellate Procedure.

SO ORDERED! this 13th day of January, 1997.

PETER C. SIGUENZA
Chief Justice
