

INTERMEDIATE COURT OF APPEALS OF THE STATE OF HAWAI‘I

Huls v. Dong

Huls · No. CAAP-24-0000704 · Decided May 7, 2026

SUMMARY

The Intermediate Court of Appeals of Hawai‘i vacated a circuit court judgment dismissing Edward Huls's personal-injury action against Lanz Dong for failure to prosecute under Hawai‘i Rules of Civil Procedure Rule 41(b). The court held that the record did not establish deliberate delay, contumacious conduct, or actual prejudice, and that the circuit court had not considered less severe sanctions before dismissing the case with prejudice.

CASE DETAILS

COURT	Intermediate Court of Appeals of the State of Hawai‘i
WRITING FOR THE COURT	Katherine G. Leonard, Presiding Judge; Keith K. Hiraoka, Associate Judge; Clyde J. Wadsworth, Associate Judge
JURISDICTION	Intermediate Court of Appeals of the State of Hawai‘i
DECIDED	May 7, 2026
DOCKET	CAAP-24-0000704
DISPOSITION	vacated
PROCEDURAL POSTURE	Huls appealed from a final judgment entered after the Circuit Court of the First Circuit dismissed his personal-injury complaint with prejudice for failure to prosecute under Hawai‘i Rules of Civil Procedure Rule 41(b).
STANDARD OF REVIEW	Conclusions of law are reviewed de novo; findings of fact are reviewed under the clearly erroneous standard; dismissal under HRCPP Rule 41(b) is reviewed for abuse of discretion.
PRECEDENTIAL VALUE	unpublished and nonprecedential
PARTIES	Edward Huls v. Lanz Dong

TOPICS

- motions to dismiss
- civil procedure
- appellate procedure
- standard of review
- remedies

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the circuit court clearly erred in challenged findings of fact concerning Huls's communications with Dong and his failure to appear at the dismissal hearing.
2. Whether the circuit court abused its discretion by dismissing Huls's complaint with prejudice for failure to prosecute under HRCF Rule 41(b).

HOLDINGS

1. The challenged findings that Huls failed to respond to Dong's requests to reset the arbitration, communicated that he would obtain new counsel, and failed to appear when the hearing was called were supported by the record and were not clearly erroneous.
2. A complaint may not be dismissed with prejudice for failure to prosecute where the record does not establish deliberate delay, contumacious conduct, or actual prejudice and the trial court has not considered less severe sanctions or explained why they would be inadequate.

KEY QUOTATIONS

"Because the interests of justice are best served by resolving a case on its merits, absent a clear record of delay or contumacious conduct, the careful exercise of judicial discretion requires that a trial court consider less severe sanctions and explain, where not obvious, their inadequacy for promoting the interests of justice." (4-5)

"Dismissal of a complaint with prejudice is a 'last resort where lesser sanctions would not serve the interest of justice.'" (3)

FACTUAL BACKGROUND

Huls filed a personal-injury action against Dong and identified health-care providers as witnesses while stating that the parties were proceeding through the Court Annexed Arbitration Program. The scheduled February 4, 2022 arbitration did not occur, and Huls's attorneys withdrew in November 2022 without substitute counsel appearing. Dong first sought to reset the arbitration in January 2024 and followed up in February, but Huls did not respond; Huls also did not oppose Dong's motion to dismiss and initially failed to appear at the hearing. The record did not establish deliberate delay, contumacious conduct, or actual prejudice to Dong, and the circuit court did not consider lesser sanctions before dismissing the case with prejudice.

PROCEDURAL HISTORY

Huls sued Dong for injuries allegedly caused when Dong struck him with her car. After Huls's attorneys withdrew and no substitute counsel appeared, the case remained inactive and a scheduled court-annexed arbitration did not occur. Dong moved to dismiss for failure to prosecute; the circuit court granted the motion after Huls initially failed to appear at the hearing and then declined to reconsider its ruling. The circuit court entered written findings and conclusions and a final judgment, which Huls appealed.

DISPOSITION

vacated

REMAND INSTRUCTIONS

Remanded for further proceedings after vacatur of the September 26, 2024 Final Judgment.

CASES CITED

- Cowan v. Exclusive Resorts PBL1, LLC, 156 Hawai‘i 268, 272, 574 P.3d 288, 292 (2025)
- Okada Trucking Co. v. Board of Water Supply, 97 Hawai‘i 450, 459, 40 P.3d 73, 82 (2002)
- In re Blaisdell, 125 Hawai‘i 44, 48-50, 252 P.3d 63, 67-69 (2011)

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