

NO. 23577

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

CLARENCE S. ONAKA, Plaintiff-Appellee

vs.

ALLYSON L. ONAKA, Defendant-Appellant

APPEAL FROM THE FAMILY COURT OF THE SECOND CIRCUIT
(FC-D NO. 96-0411)

ORDER DISMISSING APPEAL
(By: Moon, C.J., Levinson,
Nakayama, Ramil, and Acoba, JJ.)

Upon review of the record, it appears that: (1) the filing of the petition for bankruptcy by Appellant on June 20, 2000 operated as a stay of the continuation of FC-D 96-0411; 11 U.S.C. § 362; (2) the bankruptcy stay applied to Appellant's appeal of the June 8, 2000 property division order; (3) the appeal of the June 8, 2000 order was filed while the bankruptcy stay was in effect and the July 7, 2000 notice of appeal is invalid; Cf. Island Ins. Co., Inc. v. Santos, 86 Hawai'i 363, 366, 949 P.2d 203, 206 (App. 1997); (4) the bankruptcy court's September 20, 2000 order granted relief from the bankruptcy stay, but did not retroactively annul the stay so as to validate the July 7, 2000 notice of appeal; Id. at 367, 949 P.2d at 207; and, thus, (5) absent retroactive annulment of the bankruptcy stay, we lack jurisdiction over this appeal. Therefore,

IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, January 31, 2001.