

*** NOT FOR PUBLICATION ***

NO. 26235

IN THE SUPREME COURT OF THE STATE OF HAWAII

THE ESTATE OF CLARENCE M. NAKAHARA, Deceased.

APPEAL FROM THE THIRD CIRCUIT COURT
(PROBATE NO. 5271)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon review of the record, it appears that the probate court's September 12, 2003 order was purportedly certified for appeal pursuant to HPR 34(a), but certification under HPR 34(a) was improper inasmuch as the September 12, 2003 order did not fully address all claims raised in the March 15, 2002 petition. See HPR 34(a) ("Any order that fully addresses all claims raised in a petition to which it relates, but that does not finally end the proceeding, may be certified for appeal in the manner provided for by Rule 54(b) of the [HRCP]."). The September 12, 2003 order was not otherwise certifiable for appeal pursuant to HRCP 54(b) inasmuch as HRCP 54(b) does not apply to probate proceedings. See HRCP 81(a)(1). The September 12, 2003 order is an interlocutory order that was not certified for interlocutory appeal pursuant to HPR 34(b) and HRS § 641-1(b). Therefore,

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

DATED: Honolulu, Hawaii, March 17, 2004.