

*** NOT FOR PUBLICATION ***

NO. 26491

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

JAMES R. SMITH, Claimant/Appellant-Appellant

vs.

MAUI COUNTY BOARD OF VARIANCE AND APPEALS,
Defendant/Appellee-Appellee

APPEAL FROM THE SECOND CIRCUIT COURT
(CIV. NO. 03-1-0440)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that the circuit court's January 15, 2004 order dismissing Civil No. 03-1-0440 has not been reduced to a separate judgment as required by HRCP 58 and 72(k). Thus, this appeal is premature and we lack jurisdiction. See Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 869 P.2d 1334 (1994). Therefore,

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

DATED: Honolulu, Hawai'i, July 20, 2004.