

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 26590

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

K. HAMAKADO  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

2006 NOV -8 AM 9:26

FILED

CAROL ROBERTS, Individually and on behalf of the ESTATE OF ARABELLA MAE ILIHIA ROBERTS MOORE, Deceased, Plaintiffs-Appellees, v. RUSSELL E. REES, M.D., HAWAII HEALTH SYSTEMS CORPORATION dba KONA COMMUNITY HOSPITAL; and DOE DEFENDANTS 1-10, Defendants, and WILLIAM MOORE, Petitioner-Appellant

APPEAL FROM THE CIRCUIT OF THE THIRD CIRCUIT  
(Civ. No. 03-1-0077K)

ORDER DISMISSING APPEAL

(By: Watanabe, Presiding Judge, Nakamura and Fujise, JJ.)

Upon review of the record, it appears that on January 8, 2004, the parties to this medical malpractice action filed a Stipulation For Dismissal With Prejudice of All Claims and All Parties Pursuant to Hawai'i Rules of Civil Procedure (HRCP) Rule 41(a)(1)(B) and (c) (Stipulation) with the Circuit Court of the Third Circuit (circuit court).<sup>1</sup> Said Stipulation recited "that all claims and all parties are hereby dismissed with prejudice" and that "[t]his stipulation disposes of all claims and all parties."

There being no subsequent motion to vacate the dismissal or to impose HRCP Rule 11 sanctions, the circuit court

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<sup>1</sup> The Honorable Ronald Ibarra presided.

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lost jurisdiction with the entry of that Stipulation, Amantiad v. Odum, 90 Hawai'i 152, 977 P.2d 160 (1999) and Gilmartin v. Abastillas, 10 Haw. App. 283, 869 P.2d 1346 (1994), and had no jurisdiction to consider Petitioner-Appellant William Moore's (Moore) (1) Motion for Reconsideration Regarding Order Granting in Part Plaintiffs' Motion to Approve Settlement Allocation and Authorizing Carol Roberts to Sign on Behalf of Her Minor Children Dillon Mokuohai Arthur Medeiros and Samantha Donn Kaimana Medeiros and the Estate of Arabella Mae Ilihia Roberts Moore, Deceased, and Motion to Seal the Entire Record Herein and (2) Ex Parte Motion to Intervene For the Purpose of Appeal.

This court retains jurisdiction not over the merits, but to correct an error in jurisdiction. Bush v. Hawaiian Homes Com'n, 76 Hawai'i 128, 133, 870 P.2d 1272, 1277 (1994).

Therefore, the April 23, 2004 orders disposing of Moore's motions are void and we have no jurisdiction to entertain Moore's appeal therefrom on the merits.

IT IS HEREBY ORDERED that the Circuit Court of the Third Circuit's April 23, 2004 Order Denying William Moore's Motion for Reconsideration Regarding Order Granting in Part Plaintiff's Motion to Approve Settlement Allocation and Authorizing Carol Roberts to Sign On Behalf of Her Minor Children Dillon Mokuohai Arthur Mediros [sic] and Samantha Donn Kaimana Medeiros and the Estate of Arabella Mae Ilihia Roberts Moore, Deceased, and Motion to Seal the Entire Record Herein and the April 23, 2004 Order Denying William Moore's Ex Parte Motion to

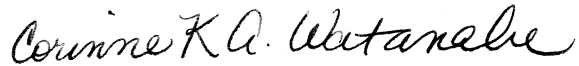
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Intervene For the Purpose of Appeal; Motion to Allow Access For Appeal; Motion to Allow Extension of time to file Notice of Appeal are vacated as void and this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, November 8, 2006.

On the briefs:

Phillip L. Carey,  
for Petitioner-Appellant.



Presiding Judge

Jerry M. Hiatt and  
David R. Harada-Stone,  
for Plaintiffs-Appellees.



Associate Judge



Associate Judge