

NO. 27929

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAI'I

LLEWELLYN KANAKAMAIKAI WAILEHUA, JR.,  
Plaintiff-Appellant,

v.

THE STATE OF HAWAI'I, THE HAWAI'I PAROLING AUTHORITY,  
ALFRED BEAVER, MARK TIWANAK, LANI SUIISO-GARCIA,  
TOMMY JOHNSON, AND ANTHONY COMMENDATOR,  
Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(Civil No. 03-1-1981)

ORDER DISMISSING APPEAL

(By: Burns, C.J., Lim and Foley, JJ.)

Upon review of the record, it appears that we lack jurisdiction over Plaintiff-Appellant Llewellyn Kanakamaikai Wailehua, Jr.'s (Wailehua), appeal from the April 26, 2006 "Final Order of Dismissal Without Prejudice (Inactivity)," because the Honorable Karen S. S. Ahn's April 26, 2006 order is not an appealable final judgment under HRS § 641-1(a) (Supp. 2005), Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP), and the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

Under the HRCP Rule 58 separate document rule, "[a]n appeal may be taken from circuit court orders resolving claims against parties only after the orders have been reduced to a

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judgment and the judgment has been entered in favor of and against the appropriate parties pursuant to HRCP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 119, 869 P.2d at 1338. "An appeal from an order that is not reduced to a judgment in favor or against the party by the time the record is filed in the supreme court will be dismissed." Id. at 120, 869 P.2d at 1339 (footnote omitted). For example, "an order disposing of a circuit court case is appealable when the order is reduced to a separate judgment." Alford v. City and Count of Honolulu, 109 Hawai'i 14, 21, 122 P.3d 809, 816 (2005) (citation omitted); see, e.g., Price v. Obayashi Hawaii Corporation, 81 Hawai'i 171, 176, 914 P.2d 1364, 1369 (1996) ("Although RCCH 12(q) [(regarding dismissal for want of prosecution)] does not mention the necessity of filing a separate document, HRCP 58, as amended in 1990, expressly requires that 'every judgment be set forth on a separate document.'"). Therefore, "where all claims are dismissed and there is no relevant HRCP Rule 54(b) certification as to one or more but not all of the dismissals, there must be one final order (judgment) dismissing all claims against all parties." CRSC, Inc. v. Sage Diamond Co., Inc., 95 Hawai'i 301, 306, 22 P.3d 97, 102 (App. 2001) (footnote omitted).

The April 26, 2006 "Final Order of Dismissal Without Prejudice (Inactivity)" dismisses all claims, but the circuit court has not reduced the April 26, 2006 order to a separate judgment that satisfies the requirements for an appealable final

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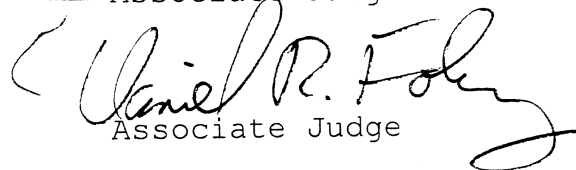
judgment under HRCP Rule 58 and the holding in Jenkins v. Cades Schutte Fleming & Wright. Absent an appealable final judgment, this appeal is premature. Therefore,

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

DATED: Honolulu, Hawai'i, July 21, 2006.

  
Chief Judge

  
Associate Judge

  
Associate Judge