

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 28003

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

JEAN F. REMIGIO, Plaintiff-Appellee,

v.

FRED M. ORTIZ, Defendant-Appellant,

and

ROYAL LAMARR HARDY, aka ROYAL LAMARR SOUNET;
URSULA A. SUPNET, aka URSULA ANN SOUNET; and
MICHAEL L. KAILING, Defendants

NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAII

2006 SEP 26 AM 10:04

FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CV. NO. 05-1-1768)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that we lack jurisdiction over Defendant-Appellant Fred M. Ortiz's (Appellant Ortiz) appeal from the Honorable Bert I. Ayabe's June 20, 2006 minute order and July 31, 2006 "Order Granting Plaintiff's Motion Filed May 17, 2006, for Partial Summary Judgment Against Defendants Royal Lamarr Hardy and Fred M. Ortiz on Count One and Two of Plaintiff's Complaint Filed October 4, 2005."

The June 20, 2006 minute order is not an appealable final order. Abrams v. Cades, Schutte, Fleming & Wright, 88 Hawai'i 319, 321 n.3, 966 P.2d 631, 633 n.3 (1998) ("[A] minute order is not an appealable order."). Although the circuit court

later entered the July 31, 2006 written order, the Supreme Court of Hawai'i has held that, under Rule 58 of the Hawai'i Rules of Civil Procedure (HRCPP), "[a]n appeal may be taken from circuit court orders resolving claims against parties only after the orders have been reduced to a judgment and the judgment has been entered in favor of and against the appropriate parties pursuant to HRCPP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). "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).

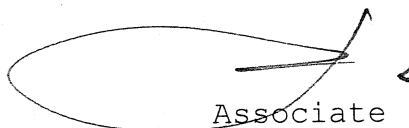
The record on appeal for this case was filed on August 28, 2006, and the record on appeal does not contain a written judgment that satisfies the requirements for an appealable final judgment under HRCPP Rule 58 and the holding in Jenkins v. Cades Schutte Fleming & Wright. It was the duty of Appellant Ortiz to ensure that the record on appeal contained an appealable final judgment by the time that the record on appeal was filed in the Supreme Court of Hawai'i. HRAP Rule 11(a). Absent an appealable final judgment, this appeal is premature. Therefore,

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

DATED: Honolulu, Hawai'i, September 26, 2006.

James A. Burns
Chief Judge


Associate Judge

Daniel R. Foley
Associate Judge