

NO. 28132

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

JOHN D. LIVINGSTONE, Petitioner-Appellee, v.  
SHANNON N. JONES, Respondent-Appellant

APPEAL FROM THE FAMILY COURT OF THE SECOND CIRCUIT  
(UCCJEA NO. 04-1-0003 and UIFS NO. 05-1-0033)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that we lack jurisdiction over Respondent-Appellant Shannon N. Jones's (Appellant Jones) appeal from the Honorable Simone Polak's August 17, 2006 "Order Granting in Part and Denying in Part Respondent's Motion to Vacate Ex Parte Order of September 23, 2005 and to Vacate Purported Stipulate Orders of March 16, 2006."

Under HRS § 571-54 (Supp. 2005), "appeals in family court cases, as in other civil cases, may be taken only from (1) a final judgment, order, or decree, . . . or (2) a certified interlocutory order." In re Doe, 96 Hawai'i 272, 283, 30 P.3d 878, 889 (2001) (citations omitted). "Final order means an order ending the proceedings, leaving nothing further to be accomplished." Familian Northwest v. Central Pacific Boiler, 68 Haw. 368, 370, 714 P.2d 936, 937 (1986) (citations and internal quotation marks omitted). The August 17, 2006 order is not the final order for the proceedings on Petitioner-Appellee John D. Livingstone's (Appellee Livingstone) (a) pending September 17, 2004 "Petition to Modify Existing Child Custody Order and for

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Sole Legal and Sole Physical Custody" in UCCJEA No. 04-1-0003, or (b) pending June 29, 2005 "Motion and Affidavit for Post-Decree Relief" in UIFS No. 05-1-0033. Indeed, the August 17, 2006 order specifically indicates that the trial for Appellee Livingstone's petition and motion has not yet taken place and the order is not certified for interlocutory appeal. It is additionally noteworthy that this appeal does not arise from a proceeding for the protection of a child under HRS Chapter 587, and, thus, the published opinions from HRS Chapter 587 proceedings that address the appealability of orders that terminate parental rights do not apply to this case. The August 17, 2006 order appears to be a temporary custody order that will remain in place only until the family court holds a trial and issues a final order that ends the proceedings, leaving nothing further to be accomplished. Therefore, the August 17, 2006 order is not appealable pursuant to HRS § 571-54 (Supp. 2005), and Appellant Jones's appeal is premature. Accordingly,

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

DATED: Honolulu, Hawai'i, January 3, 2007.

  
Chief Judge

  
Associate Judge

  
Associate Judge