

NO. 28351

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee,
v.
JAY LAWRENCE FRIEDHEIM, Defendant-Appellant

L. N. IRMANDO
CHIEF, APPELLATE COURTS
STATE OF HAWAII

2007 MAR 20 AH 10:38

FILED

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
KANEHOE DIVISION
(HPD TRAFFIC NO. 1DTI-06-097940)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that Defendant-Appellant Jay Lawrence Friedheim's (Appellant Friedheim) appeal from the December 20, 2007 judgment is moot.

An appellate court has an independent obligation to ensure jurisdiction over each case and to dismiss the appeal sua sponte if a jurisdictional defect exists. State v. Graybeard, 93 Hawai'i 513, 516, 6 P.3d 385, 388 (App. 2000). Under HRS § 291C-161 (Supp. 2006), the offense of walking along a roadway where a sidewalk is provided in violation of HRS § 291C-76 (1993) is punishable by only a fine, and, thus, this offense constitutes a "'[t]raffic infraction' . . . for which the prescribed penalties do not include imprisonment." HRS § 291D-2 (1993) (emphasis added). "No Traffic infraction shall not be classified as a criminal offense." HRS § 291D-3(a) (Supp. 2006). Nevertheless, under HRS Chapter 291D, contested traffic citations

are adjudicated at a hearing before a district court. Rule 19(d) of the Hawai'i Civil Traffic Rules (HCTR) provides that "[a]ppeals from judgments entered after a trial may be taken in the manner provided for appeals from district court civil judgments." HCTR Rule 19(d) (emphasis added). Appeals from district court civil judgments are authorized by HRS § 641-1(a) (Supp. 2006).

Pursuant to HRS § 641-1(a) (1993), appeals are allowed in civil matters from all final judgments, orders, or decrees of circuit and district courts. In district court cases, a judgment includes any order from which an appeal lies. A final order means an order ending the proceeding, leaving nothing further to be accomplished. When a written judgment, order, or decree ends the litigation by fully deciding all rights and liabilities of all parties, leaving nothing further to be adjudicated, the judgment, order, or decree is final and appealable.

Casumpang v. ILWU, Local 142, 91 Hawai'i 425, 426, 984 P.2d 1251, 1252 (1999) (citations, internal quotation marks, and footnote omitted).

In the instant case, the December 20, 2006 judgment ended the litigation by dismissing Plaintiff-Appellee State of Hawaii's (Appellee State) citation for walking along a roadway where a sidewalk is provided in violation of HRS § 291C-76 (1993), thereby fully deciding all rights and liabilities of all parties, leaving nothing further to be adjudicated. Therefore, the December 20, 2006 judgment is an appealable final judgment under HRS § 641-1(a) (Supp. 2006).

However, Appellant Friedheim has already prevailed in this matter, and, thus, there is no practical reason for

Appellant Friedheim to assert the instant appeal.

It is well-settled that the mootness doctrine encompasses the circumstances that destroy the justiciability of a case previously suitable for determination. A case is moot where the question to be determined is abstract and does not rest on existing facts or rights. Thus, the mootness doctrine is properly invoked where events have so affected relations between the parties that the two conditions for justiciability relevant on appeal - adverse interest and effective remedy - have been compromised.

State v. Fukusaku, 85 Hawai'i 462, 475, 946 P.2d 32, 45 (1997)

(citations omitted). The district court's December 20, 2006

judgment granted Appellant Friedheim's motion to dismiss Appellee

State's citation against Appellant Friedheim for walking along a

roadway where a sidewalk is provided in violation of HRS

§ 291C-76 (1993). Appellee State is not seeking appellate review

of the December 20, 2006 judgment in favor of Appellant

Friedheim, and, thus, Appellant Friedheim and Appellee State are

not truly adverse to each other in this appeal. There is no

effective appellate remedy for Appellant Friedheim under these

circumstances. Therefore, Appellant Friedheim's appeal is moot.

"Courts will not consume time deciding abstract propositions of

law or moot cases, and have no jurisdiction to do so." Territory

v. Aldridge, 35 Haw. 565, 568 (1940) (citation and internal

quotation marks omitted). Therefore,

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

IT IS HEREBY ORDERED that the appeal in appellate court case number 28351 is dismissed as moot.

DATED: Honolulu, Hawai'i, March 20, 2007.

James A. Burns
Chief Judge



Associate Judge

Daniel R. Foley
Associate Judge