

NO. 28655

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

RICHARD C. ELINE, Plaintiff-Appellant,
v.
CARRIE PEARSON, Defendant-Appellee.

KUHAMA KAU
CLERK, APPELLATE COURTS
STATE OF HAWAII

2007 OCT 11 AM 7:47

FILED

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIVIL NO. 06-01-0198)

ORDER DISMISSING APPEAL
(By: Recktenwald, C.J., Watanabe and Nakamura, JJ.)

Upon review of the record, it appears that we lack jurisdiction over Plaintiff-Appellant Richard C. Eline's (Appellant Eline) appeal from the Honorable Glenn S. Hara's June 26, 2007 order dismissing Appellant Eline's complaint for want of prosecution pursuant to Rule 12(q) of the Rules of the Circuit Courts of the State of Hawai'i (RCCH) because the circuit court has not yet reduced the June 26, 2007 RCCH Rule 12(q) dismissal order to an appealable final judgment pursuant to 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).

HRS § 641-1(a) (Supp. 2006) authorizes appeals from "final judgments, orders, or decrees[.]" Furthermore, under the 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 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. "[A]n 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) (emphasis added). Therefore, "[a]lthough RCCH [Rule] 12(q) [(regarding dismissal for want of prosecution)] does not mention the necessity of filing a separate document, HRCP [Rule] 58, as amended in 1990, expressly requires that 'every judgment be set forth on a separate document.'" Price v. Obayashi Hawaii Corporation, 81 Hawai'i 171, 176, 914 P.2d 1364, 1369 (1996) (emphasis added).

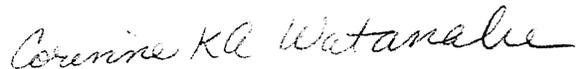
The circuit court has not reduced June 26, 2007 RCCH Rule 12(q) dismissal order to a judgment on a separate document, as HRCP Rule 58 requires under the holding in Jenkins v. Cades Schutte Fleming & Wright. The Supreme Court of Hawai'i holds that "[a]n appeal from an order that is not reduced to a judgment in favor of or against the party by the time the record is filed in the supreme court will be dismissed." Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 120, 869 P.2d at 1339 (footnote omitted). Therefore,

IT IS HEREBY ORDERED that this appeal in appellate court case number 28655 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, October 11, 2007.



Chief Judge



Associate Judge



Associate Judge