

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 28710

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

ROBERT W. LaFLAMME, Plaintiff-Appellant,

v.

THE HANOVER INSURANCE CO., Defendant-Appellee.

K. HAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2007 DEC 31 PM 1:11

FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIV. NO. 07-1-0237)

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 Robert W. LaFlamme's (Appellant LaFlamme) appeal, because the Honorable Glenn J. Kim has not reduced the July 27, 2007 order granting Defendant-Appellee Hanover Insurance Co.'s motion to dismiss for lack of personal jurisdiction (the July 27, 2007 dismissal order) to a separate judgment, as the supreme court requires under Hawai'i Revised Statutes (HRS) § 641-1(a) (Supp. 2006), 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[.]" (Emphasis added). Appeals under HRS § 641-1 (Supp. 2006) "shall be taken in the manner . . . provided by the rules of the court." HRS § 641-1(c)

(Supp. 2006). The Hawai'i Rules of Civil Procedure "govern the procedure in the circuit courts of the State in all suits of a civil nature whether cognizable as cases at law or in equity, with the exceptions state in Rule 81." HRCPC Rule 1 (emphasis added). Therefore, the Hawai'i Rules of Civil Procedure govern the procedures before the circuit court in this case. HRCPC Rule 58 requires that "[e]very judgment shall be set forth on a separate document." Based on this requirement, the supreme court has held that "[a]n appeal may be taken . . . 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 HRCPC [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).

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, 20, 122 P.3d 809, 815 (2005) (citation omitted). Thus, the supreme court has held that, "[a]lthough RCCH [Rule] 12(q) [(regarding dismissal for want of prosecution)] does not mention the necessity of filing a separate document, HRCPC [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).

In the instant case, the circuit court has not yet reduced the July 27, 2007 dismissal order to a separate judgment in favor of and against the appropriate parties, as HRCP Rule 58 requires under the holding in Jenkins v. Cades Schutte Fleming & Wright. Therefore, Appellant LaFlamme's appeal is premature.

Absent an appealable final judgment, we lack appellate jurisdiction. Therefore,

IT IS HEREBY ORDERED that the appeal in appellate court case number 28710 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, December 31, 2007.

Mary Redmond

Chief Judge

Corinne KA Watanabe

Associate Judge

Chg H. Nakamura

Associate Judge