

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 28748

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

JEFF JOHN SILVA, Plaintiff-Appellee,  
v.

GERALDINE LEIMOMI OLSZOWKA-MARTINEZ, Defendant-Appellant,  
and  
PUHALAHUA (k), et al., Defendants-Appellees.

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT  
(CIVIL NO. 06-1-0334 (HILO))

ORDER DISMISSING APPEAL

(By: Watanabe, Presiding Judge, Foley and Nakamura, JJ.)

Upon review of the record, it appears that we lack jurisdiction over Geraldine Leimomi Olszowka-Martinez's appeal from the Honorable Greg K. Nakamura's August 15, 2007 final judgment, because the appeal is not timely under Rule 4(a)(3) of the Hawai'i Rules of Appellate Procedure (HRAP).

HRS § 641-1(a) (Supp. 2006) authorizes appeals from "final judgments, orders, or decrees[.]" Furthermore, pursuant to the separate document rule under Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP), "[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 115, 119, 869 P.2d 1334, 1338 (1994).

The August 15, 2007 judgment resolved all claims against all parties by entering judgment in favor of and against the appropriate parties. Therefore, the August 15, 2007 judgment satisfied the requirements for an appealable final judgment under HRCP Rule 58 and the holding in Jenkins v. Cades Schutte Fleming

K. HAMAKADO  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

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& Wright. The August 15, 2007 judgment was an appealable final judgment pursuant to HRS § 641-1(a) (Supp. 2006).

HRAP Rule 4(a)(1) and (3) provide, in pertinent part:

(a) **Appeals in civil cases.**

(1) **TIME AND PLACE OF FILING.** When a civil appeal is permitted by law, the notice of appeal shall be filed within 30 days after entry of the judgment or appealable order.

.....

(3) **TIME TO APPEAL AFFECTED BY POST-JUDGMENT MOTIONS.** If any party files a timely motion for judgment as a matter of law, to amend findings or make additional findings, for a new trial, to reconsider, alter or amend the judgment or order, or for attorney's fees or costs, the time for filing the notice of appeal is extended until 30 days after entry of an order disposing of the motion; provided, that the failure to dispose of any motion by order entered upon the record within 90 days after the date the motion was filed shall constitute a denial of the motion.

Under HRAP Rule 4(a)(1), the notice of appeal should have been filed within 30 days after the August 15, 2007 final judgment, or by Friday, September 14, 2007. No timely post-judgment motion extended the time for filing the notice of appeal pursuant to HRAP Rule 4(a)(3). Consequently, Appellant's September 17, 2007 notice of appeal was untimely, and we lack jurisdiction over this appeal. Therefore,

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

DATED: Honolulu, Hawai'i, January 25, 2008.

*Corinne KA Watanabe*  
Presiding Judge

*Abriel P. Foley*  
Associate Judge

*Cris H. Nakamura*  
Associate Judge