

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 28812

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

SHILO WILLIS, Plaintiff-Appellant,

v.

FIRST INSURANCE COMPANY OF HAWAII, LTD., Defendant-Appellee,

and

CRAIG SWAIN and DOE DEFENDANTS 1-100, Defendants.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 01-1-0467)

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Recktenwald, C.J., Watanabe and Nakamura, JJ.)

Upon review of the record, it appears that we lack jurisdiction over the appeal filed by Plaintiff-Appellant Shilo Willis (Appellant Willis) from the Honorable Eden Elizabeth Hifo's October 3, 2007 "Order Granting Defendant First Insurance Company of Hawaii, Ltd.'s Motion for Summary Judgment, Filed Herein on June 28, 2007" (the October 3, 2007 summary judgment order) because the circuit court has not reduced the October 3, 2007 summary judgment order to a separate judgment, as required under Hawai'i Revised Statutes (HRS) § 641-1(a) (Supp. 2007), 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. 2007) authorizes appeals to the intermediate court of 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). HRCP Rule 58 requires that "[e]very judgment shall be set forth on a separate document." HRCP Rule 58. Based on this requirement under HRCP Rule 58, the supreme court has held that "[a]n appeal may be

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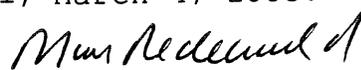
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taken . . . only after the orders have been reduced to a judgment and the judgment has been entered in favor of and against the appropriate parties pursuant to HRCP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 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).

In the instant case, the circuit court has not yet reduced the October 3, 2007 summary judgment 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 Willis's appeal is premature. Absent an appealable final judgment, Willis's appeal is premature. Therefore,

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

DATED: Honolulu, Hawai'i, March 4, 2008.



Chief Judge



Associate Judge



Associate Judge