

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 28855

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

WILLIAM MIDDLETON,
Plaintiff-Appellant,

v.

THOMAS WONG, Hearing Officer,
State of Hawai'i, Department of Human Services,
Defendant-Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIV. NO. 07-1-0479)

ORDER DISMISSING APPEAL FOR LACK OF JURISDICTION

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

Upon review of the record, it appears that we lack jurisdiction over the appeal that Appellant-Appellant William Middleton (Appellant Middleton) asserted from the Honorable Eden Elizabeth Hifo's October 22, 2007, judgment, because the October 22, 2007 judgment does not satisfy the requirements for an appealable final judgment under Hawaii Revised Statutes (HRS) § 641-1(a) (Supp. 2007), Rules 58 and 72(k) 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).

When a circuit court adjudicates an appeal from an administrative agency order, "[r]eview of any final judgment of the circuit court under this chapter shall be governed by chapter 602." HRS § 91-15 (1993). The Hawai'i Intermediate Court of

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Appeals has jurisdiction "[t]o hear and determine appeals from any court or agency when appeals are allowed by law[.]" HRS § 602-57(1) (Supp. 2007). Under Hawai'i law, "[a]ppeals shall be allowed in civil matters from all final judgments, orders, or decrees of circuit . . . courts[.]" HRS § 641-1(a) (Supp. 2007). Appeals under HRS § 641-1 "shall be taken in the manner . . . provided by the rules of the court." HRS § 641-1(c) (Supp. 2006). HRCF Rule 58 requires that "[e]very judgment shall be set forth on a separate document." HRCF Rule 58. Based on this requirement under HRCF Rule 58, the Supreme Court of Hawai'i has held that "[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 HRCF [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 119, 869 P.2d at 1338 (emphasis added). HRCF Rule 72(k) similarly requires that, upon a circuit court's adjudication of an administrative appeal, "the court having jurisdiction shall enter judgment." HRCF Rule 72(k). Therefore, the separate judgment document rule under the holding in Jenkins v. Cades Schutte Fleming & Wright applies to a secondary appeal from a circuit court order that adjudicates an administrative appeal. See, e.g., Raquinio v. Nakanelua, 77 Hawai'i 499, 500, 889 P.2d 76, 77 (App. 1995) ("We conclude . . . that the requirements for appealability set forth in Jenkins apply to appeals from circuit court orders deciding appeals from orders entered by the Director

of Labor and Industrial Relations.").

Although the circuit court reduced the October 22, 2007 order affirming Appellee-Appellee State of Hawai'i Department of Human Service's decision to a separate judgment, the October 22, 2007 judgment does not expressly enter judgment in favor of and against the appropriate parties, as the holding in Jenkins v. Cades Schutte Fleming & Wright requires. Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 119, 869 P.2d at 1338. Instead, the October 22, 2007 judgment ambiguously declares that judgment is entered, and it does not refer to any parties. Although the October 22, 2007 judgment contains a statement that declares that there are no further issues remaining in this case, the Supreme Court of Hawai'i has explained that,

[a] statement that declares "there are no other outstanding claims" is not a judgment. If the circuit court intends that claims other than those listed in the judgment language should be dismissed, it must say so: for example, "Defendant Y's counterclaim is dismissed," or "Judgment upon Defendant Y's counterclaim is entered in favor of Plaintiff/Counter-Defendant Z," or "all other claims, counterclaims, and cross-claims are dismissed."

Id. at 119-20 n.4, 869 P.2d at 1338-39 n.4 (emphases added).

Because the October 22, 2007 judgment neither (a) enters judgment in favor of and against the appropriate parties nor (b) dismisses all of the parties' claims, the October 22, 2007 judgment does not satisfy the requirements for an appealable final judgment under HRCF Rule 58 and the holding in Jenkins v. Cades Schutte Fleming & Wright. Absent an appealable final judgment, this appeal is premature.

Accordingly,

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

DATED: Honolulu, Hawai'i, March 31, 2008.

Corinne K A Watanabe
Presiding Judge

Craig W. Mikomura
Associate Judge

[Signature]
Associate Judge