

NO. 29169

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

KEITH ELLIS MURAUSKAS, Plaintiff-Appellant, v
ELLEN LAVERNE GUSMAN, Defendant-Appellee.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIV. NO. 07-1-1659)

NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

2008 OCT 30 AM 8:31

FILED

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

Upon review of the record, it appears that we do not have jurisdiction over Plaintiff-Appellant Keith Murauskas's (Appellant Murauskas) appeal from the Honorable Sabrina S. McKenna's April 25, 2008 "Order Denying Plaintiff's Motion for Relief from Court Order of December 6, 2007 Pursuant to Hawaii Rules of Civil Procedure Rule 60(b)" (the April 25, 2008 order), because the circuit court has not entered an appealable final judgment in this case.

Hawaii Revised Statutes (HRS) § 641-1(a) (1993 & Supp. 2007) authorizes appeals to the intermediate court of appeals from "final judgments, orders, or decrees[.]" Rule 58 of the Hawai'i Rules of Civil Procedure (HRCPP) requires that "[e]very judgment shall be set forth on a separate document." Based on this requirement under HRCPP Rule 58, the Supreme Court of Hawai'i 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 HRCPP [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). The circuit court has not yet entered a final judgment in this case, and, thus, the April 25, 2008 order is not eligible for appellate review.

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

Without a judgment, the April 25, 2008 order denying Murauskas's motion for relief from the December 6, 2007 dismissal order is not an appealable post-judgment order. Appellant Murauskas's appeal is premature and we lack jurisdiction.

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

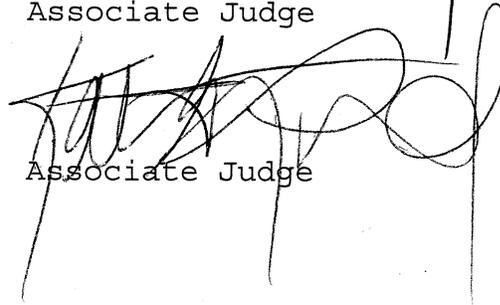
DATED: Honolulu, Hawai'i, October 30, 2008.



Chief Judge



Associate Judge



Associate Judge