

NO. 28986

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

WARNE KEAHI YOUNG, Appellant-Appellant, v.  
STATE OF HAWAI'I, DEPARTMENT OF HEALTH, Appellee-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
(CIV. NO. 07-1-0509)

ORDER DISMISSING APPEAL  
FOR LACK OF APPELLATE JURISDICTION  
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon review of the record, it appears that we lack jurisdiction over the appeal that Appellant-Appellant Warne Keahi Young (Appellant Young) asserted from the Honorable Eden Elizabeth Hifo's January 2, 2008 judgment, because the January 2, 2008 judgment does not satisfy the requirements for an appealable final judgment under Hawaii Revised Statutes (HRS) § 641-1(a) (Supp. 2007), Rule 58 and Rule 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 Appeals has jurisdiction "[t]o hear and determine appeals from any court or agency when appeals are allowed by law[.]" HRS § 602-57(1) (1993 & Supp. 2008). Under Hawai'i law, "[a]ppeals shall be allowed in civil matters from all final judgments, orders, or decrees of circuit . . . courts[.]" Appeals under HRS § 641-1 "shall be taken in the manner . . . provided by the rules

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of the court." HRCF Rule 58 requires that "[e]very judgment shall be set forth on a separate document." Based on this requirement, 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, 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." Therefore, the separate judgment document rule under the holding in Jenkins 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 January 2, 2008 order affirming Appellee-Appellee State of Hawai'i Department of Health's decision to a separate judgment, the January 2, 2008 judgment does not expressly enter judgment in favor of and against the appropriate parties, as the holding in Jenkins requires. Instead, the January 2, 2008 judgment ambiguously declares that judgment is entered, and it does not refer to any parties. Although the January 2, 2008 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).

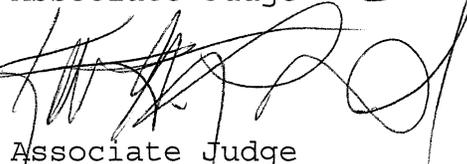
Because the January 2, 2008 judgment neither (a) enters judgment in favor of and against the appropriate parties nor (b) dismisses all of the parties' claims, the January 2, 2008 judgment does not satisfy the requirements for an appealable final judgment under HRCF Rule 58 and the holding in Jenkins. Absent an appealable final judgment, this appeal is premature and we lack jurisdiction.

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

DATED: Honolulu, Hawai'i, April 24, 2009.

  
Annie R. Foley  
Presiding Judge

  
Associate Judge

  
Associate Judge