NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 29593

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

FILED
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NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAII

BRUCE E. COX, Plaintiff-Appellee, v.
CARLYN D. COX, Defendant-Appellant

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-D NO. 06-1-0096)

ORDER DENYING MAY 1, 2009 MOTION TO DISMISS APPEAL
(By: Watanabe, Acting C.J., Foley and Fujise, JJ.)

Upon review of (1) Plaintiff-Appellee Bruce E. Cox's (Appellee Bruce Cox) May 1, 2009 motion to dismiss this appeal for lack of jurisdiction, (2) Defendant-Appellant Carlyn D. Cox's (Appellant Carlyn Cox) May 8, 2009 memorandum in opposition to Appellee Bruce Cox's May 1, 2009 motion to dismiss this appeal, (3) Appellee Bruce Cox's May 14, 2009 reply memorandum in support of Appellee Bruce Cox's May 1, 2009 motion to dismiss this appeal, and (4) the record, it appears that we have appellate jurisdiction over this appellate case pursuant to Hawaii Revised Statutes (HRS) § 571-54 (2006). Appellant Carlyn Cox appeals from the Honorable Linda S. Martell's December 18, 2008 "Second Amended Decree Granting Absolute Divorce" (December 18, 2008 second amended divorce decree). In family court cases "[a]n interested party aggrieved by any order or decree of the court may appeal to the intermediate appellate court for review of questions of law and fact upon the same terms and conditions as in other cases in the circuit court[.]" HRS § 571-54 (2006). In circuit court cases, aggrieved parties may appeal from "final judgments, orders or decrees[.]" HRS § 641-1(a) (1993 & Supp. 2008). Furthermore, "Hawaii divorce cases involve a maximum of

four discrete parts: (1) dissolution of the marriage; (2) child custody, visitation, and support: (3) spousal support; and (4) division and distribution of property and debts." Eaton v. Eaton, 7 Haw. App. 111, 118, 748 P.2d 801, 805 (1987) (citation omitted). A divorce decree that finally determines all four parts of a divorce case is a final decree under HRS § 571-54 (2006). Eaton v. Eaton, 7 Haw. App. at 118-19, 748 P.2d at 805. The December 18, 2008 second amended divorce decree finally determines all four parts of the divorce case. Furthermore, the December 18, 2008 second amended divorce decree amends the previous divorce decrees in a material and substantial respect. Poe v. Hawaii Labor Relations Bd., 98 Hawai'i 416, 418, 49 P.3d 382, 384 (2002). Therefore, the December 18, 2008 second amended divorce decree is an appealable decree pursuant to HRS § 571-54 (2006). Appellant Carlyn Cox filed her January 20, 2009 notice of appeal within thirty days after entry of the December 18, 2008 second amended divorce decree, as Rule 4(a)(1) of the Hawaii Rules of Appellate Procedure required. Therefore, Appellant Carlyn Cox's appeal from the December 18, 2008 second amended divorce decree is timely, and we have appellate jurisdiction over this case.

The issue whether the family court had jurisdiction to enter the December 18, 2008 second amended divorce decree, or any other decree or order, does not directly impact appellate jurisdiction. Any arguments that Appellee Bruce Cox wants to assert regarding (a) the family court's jurisdiction to enter decrees and orders or (b) the right of Appellant Carlyn Cox to obtain appellate review of other decrees or orders in this case

are arguments that Appellee Bruce Cox should assert in his appellate brief. Therefore,

IT IS HEREBY ORDERED that Appellee Bruce Cox's May 1, 2009 motion to dismiss this appeal for lack of jurisdiction is denied without prejudice to any arguments that Appellee Bruce Cox might assert in his appellate brief.

DATED: Honolulu, Hawai'i, May 21, 2009.

Corinne K A Watanabe
Acting Chief Judge

Daniel R. Foley
Associate Judge

Alexa D. M. Fujise
Associate Judge