

NO. 29629

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

BONNIE MACLEOD KAKINAMI, Plaintiff-Appellee,
AARON K. H. KAKINAMI, Defendant-Appellant

LOCKWOOD & HARTLEY, ALC, Movant-Appellee, v.
AARON K. H. KAKINAMI, Respondent-Appellant

APPEAL FROM THE FAMILY COURT OF THE FIFTH CIRCUIT
(FC-D NO. 06-1-0040)

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

Upon review of the record in this case, it appears that we lack jurisdiction over the appeal that Defendant Aaron Keliikuli Haruo Kakinami (Appellant Kakinami) has asserted from the Honorable Calvin K. Murashige's January 5, 2009 "Order Granting Motion for Issuance of a Charging Lien and/or Entry of a Judgment against Defendant for Attorney's Fees, Filed July 9, 2008" (the January 5, 2009 order), because the January 5, 2009 order is not an appealable post-judgment order pursuant to Hawaii Revised Statutes (HRS) § 571-54 (2006).

In family court matters, "[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. In circuit court cases, aggrieved parties may appeal from "final judgments, orders or decrees[.]" HRS § 641-1(a) (1993 & Supp. 2008). "A post-judgment order is an appealable final order under HRS § 641-1(a) if the order finally determines the post-judgment proceeding." Hall v. Hall, 96 Hawai'i 105, 111 n.4, 26 P.3d 594, 600 n.4 (App. 2001) (citation omitted), affirmed in part, and vacated in part on other grounds, Hall v. Hall, 95 Hawai'i 318, 22 P.3d 965 (2001). In other words, "[a] post-judgment order is an appealable final order under HRS § 641-1(a) if the order ends the proceedings, leaving nothing further to be accomplished." Ditto

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v. McCurdy, 103 Hawai'i 153, 157, 80 P.3d 974, 978 (2003) (citation omitted). For example, "[a]n order denying a motion for post-judgment relief under HRCP [Rule] 60(b) is an appealable final order under HRS § 641-1(a)." Ditto, 103 Hawai'i at 160, 80 P.3d at 981 (citation omitted).

The January 5, 2009 order did not finally determine the motion for the issuance of an attorneys' lien, leaving nothing further to be accomplished in the post-judgment proceeding, because the January 5, 2009 order did not finally determine the specific amount of the attorneys' fees and costs for the attorneys' lien. Instead, the January 5, 2009 order specifically provides that the family court would determine the specific amount of the attorneys' lien at a later time, after the attorneys have submitted an affidavit regarding their requested fees and costs. Although the specific amount of the attorney's lien is in a December 3, 2008 "Notice of Attorney's Charging Lien for Fees and Costs" (December 3, 2008 attorneys' lien) and a January 5, 2009 Notice of Attorney's Charging Lien for Fees and Costs" (January 5, 2009 attorneys' lien), neither the December 3, 2008 attorneys' lien nor the January 5, 2009 attorneys' lien contains the original signature of the presiding judge in this case. Both the December 3, 2008 attorneys' lien and the January 5, 2009 attorneys' lien contain a photocopy of a November 21, 2008 "memorandum," purportedly from Judge Calvin K. Murashige to attorneys Steven L. Hartley and Rodney K. F. Ching, which contains a final determination of the amount of the attorneys' lien. However, that document is a mere photocopy of the original November 21, 2008 "memorandum," and the record on appeal does not contain an original copy of the November 21, 2008 "memorandum" with the original signature of Judge Calvin K. Murashige. Absent a formal order (with the original signature of the presiding judge) in the record that finally determines the specific amount of the attorneys' lien, leaving nothing further to be accomplished in that particular post-judgment proceeding, the post-judgment proceeding for the motion for the issuance of an attorneys' lien has not yet formally concluded. Therefore, the January 5, 2009 order is not an appealable post-judgment

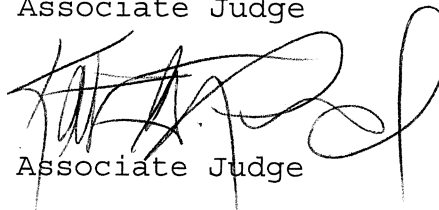
order pursuant to HRS § 571-54. Absent an appealable post-judgment order, we lack appellate jurisdiction over this appellate case.

Accordingly, IT IS HEREBY ORDERED that appellate court case number 29629 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, June 18, 2009.


Presiding Judge


Associate Judge


Associate Judge