

NO. 30003

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

HAWAII STATE TEACHERS ASSOCIATION and RAYMOND CAMACHO,
Respondents/Appellants-Appellants,

v.

LINDA LINGLE, Governor, State of Hawaii,
and MARIE LADERTA, Chief Negotiator, Office
of Collective Bargaining, State of Hawaii (2008-042),
Complainants/Appellees-Appellees,

and

HAWAII LABOR RELATIONS BOARD; JAMES B. NICHOLSON;
EMORY SPRINGER and SARAH R. HIRAKAMI, Agency/Appellees-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 09-1-0475)

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

Upon review of the record in this case, it appears that we lack jurisdiction over the appeal that Respondent/Appellant/Appellant Hawaii State Teachers Association (Appellant HSTA) has asserted from the Honorable Gary W. B. Chang's July 16, 2009 "Order Granting Agency-Appellees Hawaii Labor Relations Board, et al.'s Joinder in Complainants-Appellees Linda Lingle and Marie Laderta's Motion to Dismiss Appeal Filed February 26, 2009, Filed on June 4, 2009" (the July 16, 2009 dismissal order) and August 12, 2009 "Order Granting Complainants-Appellees Linda Lingle and Marie Laderta's Motion to Dismiss Appeal Filed May 18, 2009" (the August 12, 2009 dismissal order), because the circuit

court has not reduced these orders to a separate judgment, as Rules 58 and 72(k) of the Hawai'i Rules of Civil Procedure (HRCP) require.

Hawaii Revised Statutes (HRS) § 377-9(j) (1993 & Supp. 2008) provides that, when a party appeals from a ruling by Agency/Appellee/Appellee Hawai'i Labor Relations Board (Appellee HLRB) to a circuit court, "[a]ny party may appeal from the judgment of a circuit court entered under this chapter, subject to chapter 602, in the manner provided for civil appeals from the circuit courts." HRS § 377-9(j); see also HRS § 91-15 (1993) ("Review of any final judgment of the circuit court under this chapter shall be governed by chapter 602."). The 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) (Supp. 2008). "Appeals shall be allowed in civil matters from all final judgments, orders, or decrees of circuit . . . courts[.]" HRS § 641-1(a) (1993 & Supp. 2008). Appeals under HRS § 641-1 "shall be taken in the manner . . . provided by the rules of the court." HRS § 641-1(c). HRCP Rule 58 requires that "[e]very judgment shall be set forth on a separate document." Based on HRCP Rule 58, the supreme court 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 HRCP [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). Consequently, "an

order disposing of a circuit court case is appealable when the order is reduced to a separate judgment." Alford v. City and Count of Honolulu, 109 Hawai'i 14, 20, 122 P.3d 809, 815 (2005) (citation omitted). For example, "[a]lthough RCCH [Rule] 12(q) [(regarding dismissal for want of prosecution)] does not mention the necessity of filing a separate document, HRCF [Rule] 58, as amended in 1990, expressly requires that 'every judgment be set forth on a separate document.'" Price v. Obayashi Hawaii Corporation, 81 Hawai'i 171, 176, 914 P.2d 1364, 1369 (1996).

Similar to HRCF Rule 58, the language in HRCF Rule 72(k)¹ likewise requires that, upon a circuit court's final determination 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 applies to an administrative appeal before a circuit court. 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."). For example, where a circuit court had failed to reduce its dispositive orders in an administrative appeal to a separate judgment, we dismissed the appeal for lack of jurisdiction:

¹ HRCF Rule 81(e) requires that the Hawai'i Rules of Civil Procedure "shall apply to any proceedings in a circuit court pursuant to appeal to the circuit court from a governmental official or body (other than a court), except as otherwise provided in Rule 72."

In Raquinio's case, the requirements of HRCF Rules 58 and 72(k) and Jenkins apply and have not been satisfied. Therefore, Raquinio's appeal is premature, and we do not have appellate jurisdiction.

Accordingly, this appeal is dismissed for lack of appellate jurisdiction.

Id.

Likewise in the instant administrative appeal, the requirements of HRCF Rule 58, HRCF 72(k) and Jenkins apply, and yet neither the circuit court nor the parties have satisfied these requirements because the circuit court has not reduced the July 16, 2009 dismissal order and the August 12, 2009 dismissal order to a separate judgment that, on its face, resolves all claims in this case by entering judgment in favor of and against the appropriate parties. Absent an appealable final judgment, Appellant HSTA's appeal is premature and we lack jurisdiction. Therefore,

IT IS HEREBY ORDERED that appellate court case number 30003 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, December 16, 2009.

Presiding Judge

Associate Judge

Associate Judge