

*** NOT FOR PUBLICATION ***

NO. 27366

IN THE SUPREME COURT OF THE STATE OF HAWAII

RICHARD ADAM, Petitioner-Appellant,

vs. :

STATE OF HAWAII, Respondent-Appellee.

APPEAL FROM THE THIRD CIRCUIT COURT, KONA DIVISION
(SPP NO. 03-1-0001K)

ORDER DISMISSING APPEAL

(By: Nakayama, J. for the court¹)

Upon review of the record, it appears that the circuit court has denied a hearing in SPP No. 03-1-0001K pursuant to HRPP 40(f), but has not disposed of the proceeding by entering a judgment dismissing or denying the petition pursuant to HRPP 40(g)(2). Thus, the appeal of the June 1, 2005 order denying a hearing is premature and we lack jurisdiction. See HRPP 40(h); HRS § 641-11. Therefore,

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

DATED: Honolulu, Hawai'i, September 21, 2005.

FOR THE COURT:

Dennis C. Nakayama
Associate Justice



¹Considered by: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.