

FILED

NO. 28736

2008 NOV 17 PM 1:14

IN THE SUPREME COURT OF THE STATE OF HAWAII

Jean Kikumoto
~~WALTER T. YARA~~
CLERK, APPELLATE COURTS
STATE OF HAWAII

RICHARD BLAISDELL,
Petitioner/Plaintiff-Appellant

vs.

DEPARTMENT OF PUBLIC SAFETY,
Respondent/Defendant-Appellee

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(CIV. NO. 04-1-1455)

ORDER

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Petitioner/plaintiff-appellant Richard Blaisdell filed a "notice of appeal" in this certiorari proceeding on November 3, 2008. The "notice of appeal" purports to directly appeal to this court -- for review in this certiorari proceeding -- an Amended Order Granting Summary Judgment and an Amended Judgment entered by the circuit court in Civil No. 04-1-1455 on September 16, 2008. The September 16, 2008 order and judgment were entered forty-one days after entry of the intermediate court of appeals' August 6, 2008 Judgment on Appeal, while jurisdiction over Civil No. 04-1-1455 remained in the appellate court. See HRAP 36(c) ("The intermediate court of appeals' judgment is effective upon the ninety-first day after entry or, if an application for a writ of certiorari is filed, upon entry of the supreme court's order dismissing or rejecting the application, or upon entry of the

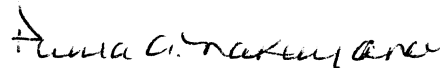
supreme court's order affirming in whole the judgment of the intermediate court of appeals."); HRAP 41, COMMENT ("[T]he intermediate court of appeals' judgment cannot be effective and jurisdiction cannot revert to the court or agency from which appeal was taken until the time for filing the application [for a writ of certiorari] has expired or, if an application is filed, the supreme court has rejected or dismissed the application or affirmed the intermediate of appeals judgment in whole."). The circuit court was without jurisdiction to enter the September 16, 2008 order and judgment. Therefore,

IT IS HEREBY ORDERED that petitioner/plaintiff appellant's November 3, 2008 "notice of appeal" filed in No. 28736 is dismissed. The Amended Order Granting Summary Judgment and the Amended Judgment entered in Civil No. 04-1-1455 on September 16, 2008 are null and void and of no effect.

DATED: Honolulu, Hawai'i, November 17, 2008.



Steven H. Leason



James E. Duff, Jr.