

NO. 30389

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

ROBERT G. BABSON, JR., ANN C. BABSON,
JOY BRANN, PAULA BROCK, and DANIEL GRANTHAM,
Plaintiffs-Appellees,

v.

KEVIN CRONIN, Chief Elections Officer, State of Hawaii,
and STATE OF HAWAII, Defendants-Appellants

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CIVIL NO. 08-1-0378)

ORDER DISMISSING APPEAL FOR LACK OF JURISDICTION
(By: Nakamura, C.J., Foley and Fujise, JJ.)

Upon review of Defendants-Appellants Kevin Cronin and the State of Hawaii's (the State Appellants) appeal from the Honorable Joseph E. Cardoza's February 17, 2010 judgment, it appears that we lack jurisdiction over the State Appellants' appeal because the February 17, 2010 judgment does not satisfy the requirements for an appealable final judgment under Rule 58 of the Hawaii Rules of Civil Procedure (HRCPP) and the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawaii 115, 119, 869 P.2d 1334, 1338 (1994).

Hawaii Revised Statutes (HRS) § 641-1(a) (1993 & Supp. 2009) authorizes appeals from final judgments, orders, or decrees. Appeals under HRS § 641-1 "shall be taken in the manner . . . provided by the rules of the court." HRS § 641-1(c). "Every judgment shall be set forth on a separate document." HRCPP Rule 58. Based on this requirement under HRCPP Rule 58, the Supreme Court of Hawaii has held that "[a]n appeal may be taken . . . 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, 76 Hawaii i at 119, 869 P.2d at 1338.

[I]f a judgment purports to be the final judgment in a case involving multiple claims or multiple parties, the judgment (a) must specifically identify the party or parties for and against whom the judgment is entered, and (b) must (i) identify the claims for which it is entered, and (ii) dismiss any claims not specifically identified[.]

Id. (emphases added).

For example: "Pursuant to the jury verdict entered on (date), judgment in the amount of \$___ is hereby entered in favor of Plaintiff X and against Defendant Y upon counts I through IV of the complaint." A statement that declares "there are no other outstanding claims" is not a judgment. If the circuit court intends that claims other than those listed in the judgment language should be dismissed, it must say so: for example, "Defendant Y's counterclaim is dismissed," or "Judgment upon Defendant Y's counterclaim is entered in favor of Plaintiff/Counter-Defendant Z," or "all other claims, counterclaims, and cross-claims are dismissed."

Id. at 119-20 n.4, 869 P.2d at 1338-39 n.4 (emphases added). "An appeal from an order that is not reduced to a judgment in favor or against the party by the time the record is filed in the supreme court will be dismissed." Id. at 120, 869 P.2d at 1339 (footnote omitted).

This case involves multiple parties and multiple claims. Although Plaintiffs-Appellees Robert G. Babson, Jr., Ann C. Babson, Joy Brann, Paula Brock, and Daniel Grantham's complaint contains four distinct and separate counts, the February 17, 2010 judgment does not specifically identify the count or counts on which the circuit court intends to enter judgment. Although the February 17, 2010 contains a statement that there are no other parties, claims, counterclaims or cross-claims, the Supreme Court of Hawaii i has specifically noted that "[a] statement that declares 'there are no other outstanding

claims' is not a judgment." Jenkins, 76 Hawai'i at 119-20 n.4, 869 P.2d at 1338-39 n.4.

Consequently, the February 17, 2010 judgment does not satisfy the requirements for an appealable judgment in a multiple claim case under HRCF Rule 58 and the holding in Jenkins. Absent the entry of an appealable final judgment, we lack appellate jurisdiction in appellate court case number 30389. Accordingly,

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

DATED: Honolulu, Hawai'i, July 19, 2010.

Chief Judge

Associate Judge

Associate Judge