

NO. CAAP-15-0000389

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

KEITH M. KANESHIRO, in his official capacity as the Prosecuting
Attorney of the City and County of Honolulu, on behalf of the
State of Hawaii Plaintiff-Appellant,

v.

TWELVE (12) PRODUCTS DIRECT MACHINES (TOTAL ESTIMATED VALUE
\$42,000.00) SEVEN HUNDRED FORTY FOUR DOLLARS IN UNITED STATES
CURRENCY (\$744.00) ONE (1) DVR (ESTIMATED VALUE \$100.00)
(TOTAL AGGREGATE VALUE \$42,844.00) Defendant-Appellee,

and

PJY ENTERPRISES, Claimant-Appellee,

and

WINNER'Z ZONE APRIL WHITING-HARAGUCHI; TRACY YOSHIMURA;
AND STEVE OHIRA, Claimants-Appellants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(S.P. NO. 14-1-0568)

ORDER GRANTING MAY 15, 2015 MOTION TO DISMISS APPELLATE COURT
CASE NUMBER CAAP-15-0000389 FOR LACK OF APPELLATE JURISDICTION

(By: Foley, Presiding Judge, Leonard and Ginoza, JJ.)

Upon review of (1) Claimant-Appellee PJY Enterprises, LLC's (Appellee PJY Enterprises), May 15, 2015 motion to dismiss appellate court case number CAAP-15-0000389 for lack of appellate jurisdiction, (2) the lack of any memorandum by Plaintiff-Appellant Keith M. Kaneshiro (Appellant Kaneshiro) in response to Appellee PJY Enterprises' May 15, 2015 motion to dismiss, and

(3) the record, it appears that we lack appellate jurisdiction over Appellant Kaneshiro's appeal from the April 7, 2015 interlocutory "Findings of Fact, Conclusions of Law, and Order Granting Claimant PJY Enterprises, LLC's Motion to Dismiss Verified Petition for Forfeiture and/or in the Alternative Granting in Part PJY Enterprises LLC's Motion for Summary Judgment" (the April 7, 2015 interlocutory order) entered by the Circuit Court of the First Circuit (circuit court) in S.P. No. 14-1-0568, because the circuit court has not yet reduced the April 7, 2015 interlocutory order to a separate judgment.

Hawaii Revised Statutes ("HRS") § 641-1(a) (1993 & Supp. 2014) authorizes appeals to the Hawai'i Intermediate Court of Appeals from final judgments, orders, or decrees. Appeals under HRS § 641-1 "shall be taken in the manner . . . provided by the rules of court." HRS § 641-1(c). Rule 58 of the Hawai'i Rules of Civil Procedure (HRCP) requires that "[e]very judgment shall be set forth on a separate document." The HRCP such as HRCP Rule 58 apply to, among other things, "[p]roceedings for the forfeiture of property for violation of a statute[.]" HRCP Rule 81(b)(6). Based on the separate document requirement under HRCP Rule 58, the Supreme Court of Hawai'i held more than twenty years ago 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 v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). "Thus, based on Jenkins and HRCP Rule 58, an order is not appealable, even if it resolves all claims against the parties, until it has been reduced to a separate judgment." Carlisle v. One (1) Boat, 119 Hawai'i 245, 254, 195 P.3d 1177, 1186 (2008); Alford v. City and Count of Honolulu, 109 Hawai'i 14, 20, 122 P.3d 809, 815 (2005) ("[A]n order disposing of a circuit court case is appealable when the order is reduced to a separate judgment." (Citation omitted; emphasis added)). Consequently, "[a]n 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." Jenkins, 76 Hawai'i at 120, 869 P.2d at 1339 (footnote omitted).

On May 28, 2015, the circuit court clerk filed the record on appeal for appellate court case number CAAP-15-0000389, which does not include a final judgment. Absent an appealable final judgment, the April 7, 2015 interlocutory order is not eligible for appellate review, and we lack appellate jurisdiction over appellate court case number CAAP-15-0000389. Therefore,

IT IS HEREBY ORDERED that Appellee PJY Enterprises' May 15, 2015 motion to dismiss is granted, and appellate court case number CAAP-15-0000389 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, June 4, 2015.

Presiding Judge

Associate Judge

Associate Judge