

**Electronically Filed
Supreme Court
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NO. SCPW-12-0000482

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

WILLIAM S. ELLIS JR., Petitioner,

vs.

CIRCUIT COURT OF THE SECOND CIRCUIT, STATE OF HAWAI'I,
Respondent.

ORIGINAL PROCEEDING
(CIVIL NO. 05-1-0232(2))

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

(By: Recktenwald, C.J., Nakayama, Acoba, and McKenna, JJ. and
Circuit Judge Crandall, in place of Duffy, J. recused)

Upon consideration of petitioner William S. Ellis Jr.'s petition for a writ of mandamus and the papers in support, it appears that the appeal in Civil No. 05-1-0232 of HRCF 54(b) judgments entered on September 16, 2011 and October 13, 2011 on some of the parties' claims did not divest the circuit court of jurisdiction over the remainder of Civil No. 05-1-0232. The circuit court has jurisdiction and had jurisdiction, on April 25, 2012, to hear motions for entry of judgment on claims and cross-claims for which an appeal of a prior judgment on such claims was dismissed by the ICA on January 17, 2012. The circuit court's April 25, 2012 ruling to the contrary was incorrect as a matter

of law. See Territory v. Damon, 44 Haw. 557, 563, 356 P.2d 386, 390 (1960) (“[W]hen an appeal is taken from [an HRCP 54(b) judgment], the trial court is divested of jurisdiction with respect to the claim as to which the judgment was entered but it retains jurisdiction over the remainder of the case.”).

Therefore,

IT IS HEREBY ORDERED that the answer provision of HRAP 21(c) is suspended pursuant to HRAP 2.

IT IS FURTHER ORDERED that the petition for a writ of mandamus is granted. In Civil No. 05-1-0232, the circuit court shall hear -- on August 22, 2012 or prior thereto, if feasible -- the parties’ February 27, 2012 and April 3, 2012 motions for entry of judgment.

DATED: Honolulu, Hawai‘i, June 6, 2012.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Virginia L. Crandall

