

NO. CAAP-15-0000717

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

HAWAII AIR AMBULANCE (HAWAII LIFE FLIGHT),
Appellant-Respondent/Appellant,
v.
HAWAII LABOR RELATIONS BOARD, STATE OF HAWAII;
LINDA CHU TAKAYAMA, DIRECTOR, DEPARTMENT OF LABOR
AND INDUSTRIAL RELATIONS, STATE OF HAWAII,
Appellees/Appellees,
and
JAMES P. STONE, Appellee-Complainant/Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 15-1-1410-07)

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Fujise, Presiding Judge, Leonard and Ginoza, JJ.)

Upon review of the record, it appears that we lack appellate jurisdiction over this administrative appeal that Respondent/Appellant/Appellant Hawaii Air Ambulance (Hawaii Life Flight) ("Appellant Hawaii Air Ambulance") has asserted from the Honorable Rhonda A. Nishimura's October 13, 2015 judgment in Civil No. 15-1-1410-07 (RAN), because the October 13, 2015

judgment does not satisfy the requirements for an appealable final judgment under Hawaii Revised Statutes (HRS) § 641-1(a) (1993 & Supp. 2015), Rule 58 and Rule 72(k) of the Hawai'i Rules of Civil Procedure (HRCP), and the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994).

HRS § 91-15 (2012 & Supp. 2015) provides that "[r]eview of any final judgment of the circuit court or, if applicable, the environmental court, under this chapter shall be governed by chapter 602." The Hawai'i Intermediate Court of Appeals has jurisdiction "[t]o hear and determine appeals from any court or agency when appeals are allowed by law[.]" HRS § 602-57(1) (Supp. 2015). The applicable law for this appeal provides that "[a]ppeals shall be allowed in civil matters from all final judgments, orders, or decrees of circuit . . . courts[.]" HRS § 641-1(a). Appeals under HRS § 641-1 "shall be taken in the manner . . . provided by the rules of court." HRS § 641-1(c). HRCP Rule 58 requires that "[e]very judgment shall be set forth on a separate document." "An appeal may be taken from circuit court orders resolving claims against parties 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 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994) (emphasis added). "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); Bailey v. DuVauchelle, 135

Hawaii 482, 489, 353 P.3d 1024, 1031 (2015). "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." Jenkins, 76 Hawaii at 120, 869 P.2d at 1339 (footnote omitted).

HRCP Rule 72(k) similarly requires that, upon a circuit court's adjudication of an administrative appeal, "the court having jurisdiction shall enter judgment." HRCP Rule 72(k). Therefore, the separate judgment document rule under the holding in Jenkins applies to a secondary appeal from a circuit court order that adjudicates an administrative appeal in a circuit court. See, e.g., Raquinio v. Nakanelua, 77 Hawaii 499, 500, 889 P.2d 76, 77 (App. 1995) ("We conclude . . . that the requirements for appealability set forth in Jenkins apply to appeals from circuit court orders deciding appeals from orders entered by the Director of Labor and Industrial Relations.").

When explaining the requirements for an appealable judgment under the separate document rule, the Supreme Court of Hawaii has noted that

[i]f we do not require a judgment that resolves on its face all of the issues in the case, the burden of searching the often voluminous circuit court record to verify assertions of jurisdiction is cast upon this court. Neither the parties nor counsel have a right to cast upon this court the burden of searching a voluminous record for evidence of finality, . . . and we should not make such searches necessary by allowing the parties the option of waiving the requirements of HRCP [Rule] 58.

Jenkins, 76 Hawaii at 119, 869 P.2d at 1338 (original emphasis). "[A]n appeal from any judgment will be dismissed as premature if the judgment does not, on its face, either resolve all claims against all parties or contain the finding necessary for certification under HRCP [Rule] 54(b)." Id. (emphasis added).

The October 13, 2015 judgment enters judgment in favor of Complainant/Appellee/Appellee James P. Stone and against Appellant Hawaii Air Ambulance in the amount of \$760,680.00, but the October 13, 2015 judgment neither enters judgment on nor dismisses Appellant Hawaii Air Ambulance's appeal as to two named parties, Agencies/Appellees/ Appellees Hawai'i Labor Relations Board, State of Hawai'i ("Appellee Hawai'i Labor Relations Board"), and Linda Chu Takayama, Director, Department of Labor and Industrial Relations, State of Hawai'i (Appellee Takayama), despite that the October 13, 2015 judgment appears to have resulted directly from Appellee Hawai'i Labor Relations Board's motion to dismiss Appellant Hawaii Air Ambulance's administrative appeal in Civil NO. 15-1-1410-07 (RAN). Although the October 13, 2015 judgment neither enters judgment on nor dismisses Hawaii Air Ambulance's appeal as to Appellee Hawai'i Labor Relations Board and Appellee Takayama, the October 13, 2015 judgment does not contain an express finding of no just reason for delay in the entry of judgment as to one or more but fewer than all claims or parties, as HRCF Rule 54(b) requires. Instead, the October 13, 2015 judgment merely concludes with a sentence declaring that "[t]his Judgment concludes all claims and issues raised in Civil No. 15-1-1410-07." With respect to a statement in a judgment that purports to describe the effect of the judgment without containing sufficient operative language to actually enter judgment on or dismiss each claim, the Supreme Court of Hawai'i has explained,

[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."

Jenkins, 76 Hawai'i at 119-20 n.4, 869 P.2d at 1338-39 n.4 (emphasis added). The October 13, 2015 judgment does not satisfy the requirements for an appealable final judgment under HRCF Rule 58, HRCF Rule 72(k), and the holding in Jenkins. Absent an appealable final judgment, Appellant Hawaii Air Ambulance's appeal is premature and we lack appellate jurisdiction over appellate court case number CAAP-15-0000717.

Accordingly, IT IS HEREBY ORDERED AND DECREED that appellate court case number CAAP-15-0000717 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, May 25, 2016.

Presiding Judge

Associate Judge

Associate Judge