

NO. CAAP-15-0000887

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

GERALD VILLANUEVA, Plaintiff-Appellant, v.  
STATE OF HAWAII, et al., Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT  
(CIVIL NO. 14-1-0707(1))

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

Upon review of records in CAAP-15-0000887, it appears that this court lacks appellate jurisdiction over the appeal. Plaintiff-Appellant Gerald Villanueva (Appellant), pro se, appeals from the Order of Dismissal, filed on October 20, 2015 in the Circuit Court of the Second Circuit.<sup>1</sup> The Order of Dismissal dismissed Appellant's Complaint for failure to timely file a pretrial statement in accordance with Rule 12(q) of the Rules of the Circuit Court of Hawaii (RCCH). However, the Circuit Court did not subsequently enter a separate judgment on the Order of Dismissal.

HRS § 641-1(a) (1993 & Supp. 2015) authorizes appeals from final judgments, orders, or decrees from the Circuit Court. 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 (HRCPP) requires in civil circuit court cases that "[e]very judgment shall be set forth on a

---

<sup>1</sup> The Honorable Rhonda Loo presided.

separate document." HRCF Rule 58. Based on this requirement under HRCF Rule 58, the Supreme Court of Hawai'i 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 HRCF [Rule] 58[.]" Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). "Thus, based on Jenkins and HRCF 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). The separate judgment requirement of HRCF Rule 58 is applicable to appeals from a dismissal pursuant to RCCH Rule 12(q). Price v. Obayashi Hawaii Corp., 81 Hawai'i 171, 176, 914 p.2d 1364, 1369 (1996). No separate judgment by the Circuit Court appears in the record on appeal. Therefore, the appeal is premature and this court lacks appellate jurisdiction over the appeal.

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

DATED: Honolulu, Hawai'i, May 3, 2016.

Presiding Judge

Associate Judge

Associate Judge