

NO. CAAP-16-0000048

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

ESTHER EUI HYUN KIM, Plaintiff-Appellee, v.
MARSHALL TAIBOK KIM, Defendant-Appellant

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-D NO. 14-1-1537)

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION

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

Upon review of the records in CAAP-16-0000048, it appears this court lacks appellate jurisdiction over the appeal. Defendant-Appellant Marshall Taibok Kim (Appellant) appeals from the (1) Decision and Order, filed on October 1, 2015 and (2) Order Granting in Part and Denying in Part Defendant Marshall Taibok Kim's Motion to Amended and/or for Reconsideration, Filed October 12, 2015, filed on December 28, 2015, in the Family Court of the First Circuit.

Neither of the two appealed orders qualifies as an independently appealable final order or decree pursuant to Hawaii Revised Statutes (HRS) § 571-54, which provides that "[a]n interested party aggrieved by any order or decree of the court may appeal to the intermediate appellate court for review of questions of law and fact upon the same terms and conditions as in other cases in the circuit court[" (Emphasis added). In circuit court cases, aggrieved parties may appeal from "final

judgments, orders or decrees[.]" HRS § 641-1(a). Appellant admits that Plaintiff-Appellee Esther Eui Hyun Kim's Complaint for Divorce, including the question of dissolving the marriage, is still pending. Therefore, there is no final judgment in this case.

Although exceptions to the finality requirement exist under the doctrine in Forgay v. Conrad, 47 U.S. 201 (1848) (the Forgay doctrine), the collateral order doctrine, and HRS § 641-1(b), neither of the two appealed orders satisfies the requirements for appealability under the Forgay doctrine, the collateral order doctrine, or HRS § 641-1(b). See Ciesla v. Reddish, 78 Hawai'i 18, 20, 889 P.2d 702, 704 (1995) (regarding the two requirements for appealability under the Forgay doctrine); Abrams v. Cades, Schutte, Fleming & Wright, 88 Hawai'i 319, 322, 966 P.2d 631, 634 (1998) (regarding the three requirements for the collateral order doctrine); HRS § 641-1(b) (regarding the requirements for an appeal from an interlocutory order).

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

DATED: Honolulu, Hawai'i, May 19, 2016.

Presiding Judge

Associate Judge

Associate Judge