

Electronically Filed
Intermediate Court of Appeals
CAAP-16-0000484
15-SEP-2016
07:50 AM

NO. CAAP-16-0000484

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

KIRK LANKFORD, Plaintiff-Appellant
v.
CITY AND COUNTY OF HONOLULU; DEPARTMENT OF THE PROSECUTING
ATTORNEY, for the City and County of Honolulu, et al.,
Defendants-Appellees
and
LISA DE MELLO, Deputy Prosecuting Attorney for the City and
County of Honolulu, et al., Defendants

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 15-1-0330-02)

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Nakamura, Chief Judge, Fujise and Reifurth, JJ.)

Upon review of the record, it appears that we lack appellate jurisdiction over Plaintiff-Appellant Kirk Lankford's (Appellant Lankford) appeal from the Honorable Virginia L. Crandall's June 2, 2016 "Order Granting Defendants City and County of Honolulu, Department of the Prosecuting Attorney, and Peter Carlisle's Amended Motion to Dismiss Complaint" (hereinafter "the June 3, 2016 dismissal order") because the June 3, 2016 dismissal order is not eligible for appellate review in the absence of a separate judgment pursuant to Hawaii Revised Statutes (HRS) § 641-1(a) (1993 & Supp. 2015), Rule 58 of the

Hawaii Rules of Civil Procedure (HRCP) and the holding in Jenkins v. Cades Schutte Fleming & Wright, 76 Hawaii 115, 119, 869 P.2d 1334, 1338 (1994).

HRS § 641-1(a) authorizes appeals to the Hawaii 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). HRCP Rule 58 requires that "[e]very judgment shall be set forth on a separate document." Based on HRCP Rule 58, the Supreme Court of Hawaii holds that "[a]n 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 Hawaii at 119, 869 P.2d at 1338. "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 Hawaii 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).

On August 19, 2016, the circuit court clerk filed the record on appeal for appellate court case number CAAP-16-0000484, which does not contain an appealable final judgment. Absent an appealable final judgment, we lack appellate jurisdiction. Therefore,

IT IS HEREBY ORDERED that appellate court case number
CAAP-16-0000484 is dismissed for lack of appellate jurisdiction.

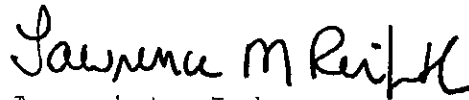
DATED: Honolulu, Hawai'i, September 15, 2016.



Chief Judge



Associate Judge



Associate Judge