

**Electronically Filed
Intermediate Court of Appeals
CAAP-17-0000335
17-APR-2020
12:50 PM**

NO. CAAP-17-0000335

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

NH, Plaintiff-Appellee, v.
SK, Defendant-Appellant

APPEAL FROM THE FAMILY COURT OF THE FIFTH CIRCUIT
(CASE NO. FC-D 13-1-0073)

ORDER
GRANTING FEBRUARY 13, 2020 MOTION TO DETERMINE JURISDICTION
AND

DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Ginoza, Chief Judge, Leonard and Wadsworth, JJ.)

Upon review of (1) Defendant-Appellant S.K.'s (S.K.) and Plaintiff-Appellee N.H.'s (N.H.) February 13, 2020 joint motion to determine jurisdiction in appellate court case number CAAP-17-0000335, and (2) the record, it appears that we lack appellate jurisdiction under Hawaii Revised Statutes (HRS) § 571-54 (2018) to review the Honorable Edmund D. Acoba's December 8, 2017 amended divorce decree in the underlying divorce case in FC-D No. 13-1-0073, which is the subject of this appeal.

The December 8, 2017 amended divorce decree initially qualified as an appealable final divorce decree pursuant to HRS § 571-54 and the holding in Eaton v. Eaton, 7 Haw. App. 111, 118-19, 748 P.2d 801, 805 (1987). However, pursuant to the holding in Life of the Land v. Ariyoshi, 57 Haw. 249, 252, 553 P.2d 464, 466 (1976), this court granted S.K. and N.H.'s June 25, 2019 joint motion to temporarily remand this case for the family court

to consider a March 9, 2018 motion by S.K. to set aside the December 8, 2017 amended divorce decree pursuant to Rule 60(b) of the Hawai'i Family Court Rules (HFCR). During the temporary remand, on July 31, 2019, the family court entered an order which granted S.K.'s motion to set aside the December 8, 2017 amended divorce decree and ordered that a new trial would be scheduled. Jurisdiction thereafter reverted to our court and the appellate record was supplemented with the family court's July 31, 2019 order. As a result of the July 31, 2019 order, the very subject of this appeal, i.e., the December 8, 2017 amended divorce decree, has been set aside and is no longer a valid, appealable final divorce decree under HRS § 571-54.

In the absence of an appealable final divorce decree, we lack appellate jurisdiction over appellate court case number CAAP-17-0000335.

Therefore, IT IS HEREBY ORDERED that S.K. and N.H.'s February 13, 2020 joint motion to determine jurisdiction is granted, and appellate court case number CAAP-17-0000335 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, April 17, 2020.

/s/ Lisa M. Ginoza
Chief Judge

/s/ Katherine G. Leonard
Associate Judge

/s/ Clyde J. Wadsworth
Associate Judge