

NO. 28087

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

RICHARD C. ELINE, Plaintiff-Appellant,
v.
FRANK CALMA, ET AL., Defendants-Appellee

K. HAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

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FILED

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIVIL NO. 06-1-0084)

ORDER DISMISSING APPEAL

(By: Burns, C.J., Lim and Foley, JJ.)

Upon review of the record, it appears that we lack jurisdiction over Plaintiff-Appellant Richard C. Eline's (Appellant Eline) appeal from the Honorable Greg Nakamura's July 31, 2006 "Order Denying Request for Default Judgment," because the July 31, 2006 order is not an appealable final judgment under Hawaii Revised Statutes (HRS) § 641-1(a) (Supp. 2005), Rule 58 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 § 641-1(a) (Supp. 2005) authorizes appeals to the intermediate court of appeals from "final judgments, orders, or decrees[.]" (Emphasis added.) Furthermore, under HRCP Rule 58, "[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


HRCP [Rule] 58[.]" Jenkins, 76 Hawai'i at 119, 869 P.2d at 1338. An appealable final judgment is a judgment that ends the litigation by fully deciding all rights and liabilities of all parties, leaving nothing further to be adjudicated. Casumpang v. ILWU, Local 142, 91 Hawai'i 425, 426, 984 P.2d 1251, 1252 (1999). "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 Hawai'i at 120, 869 P.2d at 1339 (footnote omitted).

The July 31, 2006 order did not fully decide all rights and liabilities of all parties, leaving nothing further to be adjudicated, but rather, the July 31, 2006 order allowed the litigation to proceed forward. Therefore, the July 31, 2006 order is an interlocutory order, and the circuit court has not entered an appealable final judgment. Absent an appealable final judgment, this appeal is premature. Therefore,

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

DATED: Honolulu, Hawai'i, November 30, 2006.


Chief Judge

Associate Judge


Associate Judge