

NO. 28414

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

DANIEL DEPARINI, Plaintiff-Appellant, v.
STATE OF HAWAII, et al., Defendants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(Civ. No. 04-1-0214K)

K. HANAKAUA
CLERK, APPELLATE COURTS
STATE OF HAWAII

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FILED

ORDER DISMISSING APPEAL

(By: Watanabe, Presiding J., Foley, and Nakamura, JJ.)

Upon review of the record, it appears that we lack jurisdiction over Plaintiff-Appellant Daniel Deparini's (Appellant Deparini) appeal from the Honorable Ronald Ibarra's February 22, 2007 judgment because it does not satisfy the requirements for an appealable final judgment under Hawaii Revised Statutes (HRS) § 641-1(a) (Supp. 2006), Hawai'i Rules of Civil Procedure (HRCP) Rules 54(b) and 58, 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) authorizes appeals to the intermediate court of appeals from "final judgments, orders, or decrees[.]" 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[.]" Id.

[I]f a judgment purports to be the final judgment in a case involving multiple claims or multiple parties, the judgment (a) must specifically identify the party or parties for and against whom the judgment is entered, and (b) must (i) identify the claims for which it is entered, and (ii) dismiss any claims not specifically identified[.]

Id. (emphases added). "[I]f the judgment resolves fewer than all claims against all parties, or reserves any claim for later action by the court, an appeal may be taken only if the judgment contains the language necessary for certification under HRCP

[Rule] 54(b)[.]" Id. Therefore, "an appeal from any judgment will be dismissed as premature if the judgment does not, on its face, either resolve all claims against all parties or contain the finding necessary for certification under HRCP [Rule] 54(b)." Id.

The February 22, 2007 judgment, on its face, does not resolve all claims against all parties but, instead, resolves only Appellant Deparini's claims against Defendants-Appellees Porona K. K. Gomes and Leroy H. Gomes. The judgment does not contain an express finding of no just reason for delay in the entry of judgment, as HRCP Rule 54(b) requires. Although the Circuit Court of the Third Circuit (circuit court) resolved other claims through previous judgments entered by the circuit court on September 8, 2005 and September 20, 2005, neither judgment contains an express finding of no just reason for delay in the entry of judgment, as HRCP Rule 54(b) requires for judgments that resolve fewer than all claims. Under these circumstances, absent HRCP Rule 54(b) certification, the February 22, 2007 judgment does not satisfy the requirements for an appealable final judgment under HRCP Rules 54(b) and 58 and the holding in Jenkins. Therefore,

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

DATED: Honolulu, Hawai'i, May 17, 2007.

Corinne K. Watanabe
Presiding Judge

Daniel R. Foley
Associate Judge

Craig W. Nakamura
Associate Judge