

NO. 25122

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

MICHAEL A. BRADY, Appellant-Appellant

vs.

SUSAN CHANDLER, Director, State of Hawai'i Department of Human
Services, Appellee-Appellee

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 01-1-3054-10)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama, Ramil, and Acoba, JJ.)

Upon review of the record, it appears that we do not have appellate jurisdiction. The circuit court's April 16, 2002 order is a final order under HRS § 641-1(a) (1993), even though it remands the matter for a further proceeding, because HRS § 91-14(g) (1993) authorizes a circuit court to dispose of an administrative appeal by "affirm[ing] the decision of the agency or remand[ing] the case with instructions for further proceedings[.]" See, e.g., Public Access Shoreline v. County Planning Commission, 79 Hawai'i 425, 903 P.2d 1246 (1995) (an appeal from a circuit court decision remanding the case to an agency for a contested case hearing); Price v. Zoning Board of Appeals, 77 Hawai'i 168, 883 P.2d 629 (1994) (an appeal from a circuit court decision that affirmed the zoning board of appeals' determination that landowners had violated a land use ordinance, but remanded the case for determination of the appropriate fines). However, Rule 72(k) of the Hawaii Rules of Civil Procedure requires that, upon the circuit court's determination of an administrative "appeal, the court having jurisdiction shall enter judgment. Such judgment shall be reviewable, or final, as may be provided by law." Therefore, the HRCF Rule 58 separate judgment document rule under our holding in Jenkins v. Cades

Schutte Fleming & Wright, 76 Hawai'i 115, 869 P.2d 1334 (1994), applies to an appeal from a circuit court order that resolves an administrative appeal from an agency decision. See, e.g., Raquinio v. Nakanelua, 77 Hawai'i 499, 500, 889 P.2d 76, 77 (App. 1995) ("We conclude . . . that the requirements for appealability set forth in Jenkins apply to appeals from circuit court orders deciding appeals from orders entered by the Director of Labor and Industrial Relations"). Under the HRCP Rule 58 separate judgment document rule, "an appeal from an order that purports to be a final order as to all claims and parties in civil cases may be taken only after the order has been reduced to a judgment in favor of or against the parties." Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i at 119, 869 P.2d at 1338 (footnote omitted). "An appeal from an order that is not reduced to a judgment in favor of or against the party by the time the record is filed in the supreme court will be dismissed." Id. at 120, 869 P.2d at 1339 (footnote omitted).

The circuit court, the Honorable Eden Elizabeth Hifo presiding, did not reduce the April 16, 2002 order to a separate judgment. Therefore, the appeal from the order is premature and we lack jurisdiction. Accordingly,

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

DATED: Honolulu, Hawai'i, August 30, 2002.