

*** NOT FOR PUBLICATION ***

NO. 26795

IN THE SUPREME COURT OF THE STATE OF HAWAII

OLIVIA DUNN ATHENS, Plaintiff-Appellee

vs.

JOHN STEPHEN ATHENS, II, Defendant-Appellant

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-D NO. 02-1-0407)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that the family court's June 30, 2004 and August 11, 2004 orders did not end the proceedings on the April 1, 2004 motion for post-decree relief inasmuch as the June 30, 2004 order directed plaintiff's counsel to submit an affidavit of attorney's fees and costs "for the [family] court's review and approval" and the family court has not yet approved the amount of attorney's fees and costs. Absent approval of the amount of attorney's fees and costs, the appeal of the June 30, 2004 and August 11, 2004 orders is premature. See Familian Northwest Inc. v. Central Pacific Boiler & Piping, Ltd., 68 Haw. 368, 714 P.2d 936 (1986) (a post-judgment order is an appealable final order under HRS § 641-1(a) if it finally ends the post-judgment proceedings, leaving nothing further to be determined). Therefore,

EM. RIMANDO
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STATE OF HAWAII

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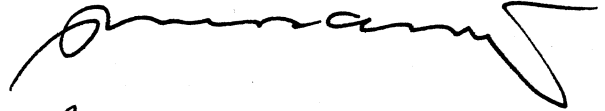
IT IS HEREBY ORDERED that this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, May 9, 2005.



Stephen L. King

Aimin C. TUKAYAMA



James E. Duggan, Jr.