

*** NOT FOR PUBLICATION ***

NO. 27830

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

EUGENE J. HUTCH, Petitioner-Appellant

vs.

STATE OF HAWAI'I, Respondent-Appellee

APPEAL FROM THE FIRST CIRCUIT COURT
(S.P.P. NO. 94-0-0121)

ORDER DISMISSING APPEAL

(By: Nakayama, J., for the court¹)

Upon review of the record, it appears we lack appellate jurisdiction over Petitioner-Appellant Eugene J. Hutch's (Appellant Hutch) appeal from the March 23, 2006 order denying Appellant Hutch's motion for a copy of the complete file and/or to know the costs thereof in S.P.P. No. 94-0-0121 (VSM). Appellant Hutch's motion was not an independent petition for post-conviction relief pursuant to Rule 40 of the Hawai'i Rules of Penal Procedure (HRPP), but, instead, it was an irregular request for copies of litigation documents. The March 23, 2006 order is not an appealable final judgment from a HRPP Rule 40 proceeding pursuant to HRS § 641-11 (1993) and HRPP Rule 40(h). The March 23, 2006 order is not an appealable final judgment pursuant to HRS § 641-1(a) (1993) and Rule 58 of the Hawai'i Rules of Civil Procedure. The March 23, 2006 order is not certified for interlocutory appeal pursuant to HRS § 641-1(b) (1993) or HRS § 641-17 (1993). The collateral order doctrine and

¹Considered by: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.

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the Forgay doctrine do not apply to this case. See State v. Kealaiki, 95 Hawai'i 309, 316-17, 22 P.3d 588, 595-96 (2001); Ciesla v. Reddish, 78 Hawai'i 18, 20, 889 P.2d 702, 704 (1995). Absent an appealable final judgment or order, we lack appellate jurisdiction. Therefore,

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

DATED: Honolulu, Hawai'i, June 19, 2006.

Pamela A. Arakawa
Associate Justice

