

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 28889

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

GINA R. CALARO, Plaintiff-Appellee, v.
SAMIE R. CALARO, Defendant-Appellant

K. HAMAKAHO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2008 APR -9 AM 10:24

FILED

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-D No. 07-1-0585)

ORDER DISMISSING APPEAL

(By: Recktenwald, C.J., Watanabe, and Nakamura, JJ.)

Upon review of the record, it appears that we lack jurisdiction over Defendant-Appellant Samie R. Calaro's appeal from the Honorable Linda S. Martell's November 8, 2007 order setting this case for trial because the November 8, 2007 order is not an appealable final order pursuant to Hawaii Revised Statutes (HRS) § 571-54 (2006).

In family court cases, "[a]n interested party aggrieved by any order or decree of the court may appeal to the intermediate appellate court for review of questions of law and fact upon the same terms and conditions as in other cases in the circuit court[.]" HRS § 571-54 (2006). In circuit court cases, aggrieved parties may appeal from "final judgments, orders or decrees[.]" HRS § 641-1(a) (1993 & Supp. 2007). Therefore, this case is appealable only if the family court entered a final judgment, order, or decree.

Hawaii divorce cases involve a maximum of four discrete parts: (1) dissolution of the marriage; (2) child custody, visitation, and support; (3) spousal support; and (4) division and distribution of property and debts. Black v. Black, 6 Haw. App. [493], 728 P.2d 1303 (1986). In Cleveland v. Cleveland, 57 Haw. 519, 559 P.2d 744 (1977), the Hawaii Supreme Court held that an order which finally decides parts (1) and (4) is final and appealable even if part (2) remains undecided. Although we recommend that, except in exceptionally compelling circumstances, all parts be decided simultaneously and that part (1) not be finally

decided prior to a decision on all the other parts, we conclude that an order which finally decides part (1) is final and appealable when decided even if parts (2), (3), and (4) remain undecided; that parts (2), (3), and (4) are each separately final and appealable as and when they are decided, but only if part (1) has previously or simultaneously been decided; and that if parts (2), (3), and/or (4) have been decided before part (1) has been finally decided, they become final and appealable when part (1) is finally decided.

Eaton v. Eaton, 7 Haw. App. 111, 118-19, 748 P.2d 801, 805 (1987) (footnote omitted). The November 8, 2007 order setting the case for trial is not one of these types of appealable final orders pursuant to HRS § 571-54 (2006).

Absent an appealable order, we lack jurisdiction over this appeal. Therefore,

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

DATED: Honolulu, Hawai'i, April 9, 2008.

Manuel A. Acosta

Chief Judge

Corinne K. Watanabe

Associate Judge

Craig H. Nakamura

Associate Judge