

**Electronically Filed
Intermediate Court of Appeals
CAAP-23-0000407
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NO. CAAP-23-0000407

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

A.P., Plaintiff-Appellant, v.
S.B., Defendant-Appellee

APPEAL FROM THE FAMILY COURT OF THE THIRD CIRCUIT
(CASE NO. 3DV20100038K)

ORDER DISMISSING APPEAL

(By: Hiraoka, Presiding Judge, Wadsworth and Guidry, JJ.)

Upon review of the records in CAAP-23-0000407 and CAAP-23-0000585, it appears that:

(1) On June 23, 2023, Plaintiff-Appellant A.P. (**Wife**) filed a notice of appeal from the May 25, 2023 Decree Granting Absolute Divorce and Awarding Child Custody (**Decree**) entered by the Family Court of the Third Circuit, creating CAAP-23-0000407. The Decree was a final, appealable decree, and the notice of appeal was timely filed. Hawaii Revised Statutes (**HRS**) § 571-54 (2018); Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 4(a)(1).

(2) On October 16, 2023, Wife filed a notice of appeal from the October 5, 2023 Amended Decree Granting Absolute Divorce and Awarding Child Custody (**Amended Decree**) entered by the Family Court, creating CAAP-23-0000585. The Amended Decree was also a final, appealable decree, and the notice of appeal was timely filed. HRS § 571-54; HRAP Rule 4(a)(1).

(3) The Amended Decree substantially amends the Decree and therefore supersedes it as the operative appealable document. See Wiesenberg v. Univ. of Hawaii, 138 Hawai'i 210, 217, 378 P.3d 926, 933 (2016) (holding that an amended judgment that alters the

original judgment "in a material and substantial respect" is "the operative document for purposes of th[e] appeal").

(4) As the notice of appeal in CAAP-23-0000585 properly appeals from the operative appealable document, the appeal in CAAP-23-0000407 is unnecessary. E.g., Cates v. State, No. CAAP-22-0000393, 2022 WL 16733710, at *1 (App. Nov. 7, 2022) (Order) (dismissing appeal from interlocutory order granting summary judgment as duplicative of and unnecessary to subsequent appeal from final judgment).

Therefore, IT IS HEREBY ORDERED that the appeal in case number CAAP-23-0000407 is dismissed as unnecessary.

IT IS FURTHER ORDERED that all pending motions are dismissed as moot.

IT IS FURTHER ORDERED that the appellate clerk shall serve a copy of this order on the clerk of the Family Court.

DATED: Honolulu, Hawai'i, November 6, 2023.

/s/ Keith K. Hiraoka
Presiding Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Kimberly T. Guidry
Associate Judge