

NO. 25714

IN THE SUPREME COURT OF THE STATE OF HAWAII

DUANE PREBLE, MARION EVERSON, and CHARLES K.Y. KHIM,
Plaintiffs-Appellants,

vs.

BOARD OF TRUSTEES OF THE EMPLOYEES RETIREMENT SYSTEM OF THE STATE
OF HAWAII; DAVID SHIMABUKURO, ADMINISTRATOR OF THE EMPLOYEES
RETIREMENT SYSTEM OF THE STATE OF HAWAII; and THE EMPLOYEES
RETIREMENT SYSTEMS OF THE STATE OF HAWAII,
Defendants-Appellees.

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 02-1-1972)

ORDER DENYING DEFENDANT-APPELLEE BOARD OF TRUSTEES OF THE
EMPLOYEES' RETIREMENT SYSTEM OF THE STATE OF HAWAII'S
MOTION TO DISMISS APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Levinson, J., for the court¹)

Upon consideration of Defendant-Appellee Board of Trustees of the Employees' Retirement System's motion to dismiss the appeal filed by Plaintiffs-Appellants Duane Preble, Marion Everson, and Charles K.Y. Khim, the papers in support and opposition, and the records and files herein, it appears that: (1) on August 20, 2002, Plaintiffs-Appellants filed a complaint for declaratory and injunctive relief against Defendant-Appellee; (2) the circuit court granted Defendant-Appellee's motion to dismiss, and on March 12, 2003, the circuit court entered a final judgment in favor of Defendant-Appellee and against Plaintiffs-Appellants; (3) HRS § 641-1 allows a party to take an appeal from all final judgment, orders or decrees of the circuit court; (4)

¹ Considered by: Moon, C.J., Levinson, Nakayama and Acoba, JJ., and Circuit Judge Masuoka, assigned by reason of vacancy.

on March 24, 2003, Plaintiffs-Appellants filed a timely notice of appeal from the final judgment; and (5) this court has jurisdiction to consider the appeal from the order dismissing the complaint and subsequent final judgment. Therefore,

IT IS HEREBY ORDERED that the motion to dismiss for lack of appellate jurisdiction is denied.

DATED: Honolulu, Hawai'i, July 3, 2003.

FOR THE COURT:

STEVEN H. LEVINSON
Associate Justice

Mark J. Bennett,
Dorothy Sellers,
Adina Cunningham, and
Kimberly Tsumoto for
defendant-appellee
Board of Trustees of the
Employees' Retirement
System of the State of
Hawaii

Charles K.Y. Khim
for plaintiffs-appellants
on the opposition