

NO. 27460

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

JAYSON AMES VIRTUDES, Petitioner-Appellant

vs.

STATE OF HAWAI'I, Respondent-Appellee

APPEAL FROM THE FIRST CIRCUIT COURT
(S.P. NO. 02-1-0249)

CLERK, APPELLATE COURTS
STATE OF HAWAI'I
E.M. RIMANDO

2006 MAR 24 PM 2:58

FILED

ORDER

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

Upon consideration of Respondent-Appellee State of Hawaii's motion to dismiss the appeal of Petitioner-Appellant Jayson Ames Virtudes due to Appellant's failure to timely serve documents, or in the alternative, the motion for an extension of time to file the answering brief, the papers in support, and the records and files herein, it appears that: (1) on August 23, 2005, Appellant filed a notice of appeal from the order granting the second motion for summary judgment; (2) this is a civil appeal governed by HRS § 641-1, which provides that appeals shall be allowed in civil matters from final judgments, orders, and decrees; (3) an appeal may be taken from circuit court orders resolving claims against parties only after the orders have been reduced to a judgment and the judgment has been entered in favor of and against the appropriate party pursuant to Rule 58 of the Hawai'i Rule of Civil Procedure. Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 118, 869 P.2d 1334, 1338

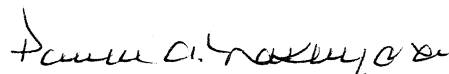
(1994); (4) an appeal from a decision that has not been reduced to a final judgment must be dismissed for lack of jurisdiction Id.; (5) the trial court in the instant case did not enter a final judgment; and (6) the appeal is premature and the court lacks jurisdiction. Therefore,

IT IS HEREBY ORDERED that the State's motion to dismiss the appeal based upon Appellant's failure to properly serve documents or for an extension of time to file the answering brief is denied.

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

DATED: Honolulu, Hawai'i, March 24, 2006.

Lisa M. Itomura,
Deputy Attorney General,
for respondent-appellee
on the motion



James E. Duggan, Jr.