

**Electronically Filed
Intermediate Court of Appeals
29966
12-APR-2012
11:15 AM**

NO. 29966

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

MARIAN DIAS, Plaintiff-Appellee, v. JAMES AKIU,
Defendant-Appellant, PETE MUNOZ AND CONNIE MUNOZ,
Legal Guardians/Defendants-Appellants, ABIGAIL
KAHIAMOE (w), NAKAHUNA HULUOLE (k), also known as
BENJAMIN HULUOLE, MARIA BROWN, also known as
MALAEA BROWN, also known as MARIA HALOA, KEKUI
(w), also known as HELEN HULUOLE, also known as
HELEN KAHALEANU, also known as HELEN KAHALEANU
KAIPO, also known as HELEN KEAKUI HALEANU COELHO,
EDITH NANI SKLAR, also known as EDITH COELHO BUCK,
also known as EDITH NANI COELHO, MARGARET ZEN,
WILLIAM ZEN, JR., TERESA ROOK, their respective
heirs or assigns, ERDMANN NEEDHAM, also known as
NEEDHAM ERDMANN, ELAINE ERDMANN, HENRY JOSEPH
KAHOLOKULA, CHERLYN A. TACHERA, DRENA PUNINANI
CHING, DOE DEFENDANTS 1-20, and ALL WHOM IT MAY
CONCERN, Defednants-Appellees

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CIVIL NO. 07-1-0087(1))

SUMMARY DISPOSITION ORDER

(By: Nakamura, C.J., Foley and Fujise, JJ.)

Defendants-Appellants Connie and Pete Muñoz (the
Muñozes) appeal solely¹ on behalf of Defendant-Appellant James

¹ The July 27, 2009 Notice of Appeal reads,

Defendant/Appellant James "Kimo" Akiu, through and by
his legal guardians, Connie and Pete Muñoz, and legal
guardians of James "Kimo" Akiu, Defendants/Appellants Connie
Muñoz and Pete Muñoz bring this Notice of Appeal based on
Hawaii Rules of Appellate Procedure, Rules 3, and 4, and
Hawaii Revised Statutes [sic], §602-5, §602.57 [sic], and
§641-1(a).

Kimo Akiu (Akiu) from the July 6, 2009 Final Judgment (Final Judgment) in favor of Plaintiff-Appellee Marian Dias (Dias) entered by the Circuit Court of the Second Circuit (circuit court).² Upon review of the record, it appears that we do not have jurisdiction over the appeal brought by the Muñozes because the Muñozes' appeal as to themselves is untimely and the Muñozes are not authorized to file a notice of appeal on Akiu's behalf.

Our review of the record reveals that Dias moved for summary judgment against all defendants and, on November 26, 2007, the circuit court granted the motion as to all defendants except Akiu. On the same day, the circuit court entered a Hawai'i Rules of Civil Procedure Rule 54(b)-certified judgment in favor of Dias and against all defendants except Akiu which contains a determination of no just reason for delay. This November 26, 2007 judgment was an appealable judgment as to all defendants except Akiu. The July 27, 2009 Notice of Appeal filed by the Muñozes was untimely as to this judgment. Hawai'i Rules of Appellate Procedure Rule 4(a)(1). Thus, the November 26, 2007 judgment is final as to the Muñozes.

Moreover, the July 27, 2009 Notice of Appeal purports to be on behalf of Akiu and is signed by the Muñozes, but not Akiu's attorney or guardian ad litem appointed in this case. The notice of appeal also contains a signature line for "James 'Kimo' Akiu, A mentally incapacitated adult" over which "James 'Kimo' Akiu P.M." is hand-printed but, based on our review of the record, does not appear to be the signature of Akiu. Under Hawaii Revised Statutes (HRS) § 605-2 (1993) and HRS § 605-14 (Supp. 2011), persons not licensed to practice law in Hawai'i "are not permitted to act as 'attorneys' and represent other natural persons in [their] causes." Oahu Plumbing & Sheet Metal, Ltd. v. Kona Constr., Inc., 60 Haw. 372, 377, 590 P.2d 570, 573 (1979). The Muñozes are apparently not licensed to practice law in Hawai'i as they moved the circuit court for counsel to be

² The Honorable Joel E. August presided.

appointed for Akiu. Conversely, Akiu's attorney and guardian ad litem, both of whom were appointed by the circuit court and approved the stipulated settlement upon which the Final Judgment was based, have not filed a notice of appeal on Akiu's behalf. Accordingly, the July 27, 2009 notice of appeal is invalid and we lack jurisdiction over this appeal.

Therefore,

IT IS HEREBY ORDERED that case number 29966 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, April 12, 2012.

On the briefs:

Pete Muñoz and
Connie Muñoz,
Defendants-Appellants, pro se.



Chief Judge

Philip J. Leas and
W. Keoni Shultz
(Cades Schutte)
for Plaintiff-Appellee
Marian Dias.



Associate Judge

Jennifer M.P.E. Oana
for Lawrence N.C. Ing.



Associate Judge