NO. CAAP-16-0000103

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

WILLIAM MIDDLETON, Appellant-Appellant,
v.
STATE OF HAWAI'I, DEPARTMENT OF HUMAN SERVICES,
Appellee-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIVIL NO. 14-1-0437)

ORDER DISMISSING THE APPEAL FOR LACK OF APPELLATE JURISDICTION
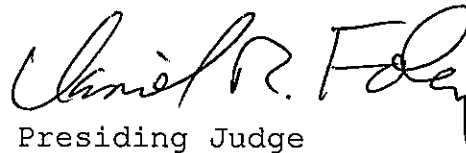(By: Foley, Presiding Judge, Reifurth and Ginoza, JJ.)

Upon review of the records in CAAP-16-0000103, it appears that this court lacks appellate jurisdiction. Appellant-Appellant William Middleton (Appellant), pro se, appeals from the "Order Affirming Administrative Hearing Decisions Dated January 17, 2013 and June 17, 2014," and a Judgment filed on January 19, 2016. A notice of appeal must be filed within 30 days after entry of an appealable judgment or order. Hawai'i Rules of Appellate Procedure (HRAP) Rule 4(a)(1). Appellant filed a Notice of Appeal on February 24, 2016. Therefore, the appeal is untimely. Appellant's February 5, 2016 Motion for Reconsideration of: Order Affirming Administrative Hearing Decisions Dated January 17, 2013 and June 17, 2014 was filed more
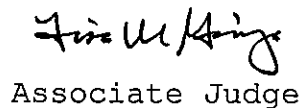
than 10 days after entry of the January 19, 2016 Judgment.
Therefore, it was untimely under Hawai'i Rules of Civil Procedure
(HRCP) Rule 59. Only a timely motion for reconsideration tolls
the time to file a notice of appeal. HRAP Rule 4(a)(3). The
failure to file a timely notice of appeal in a civil matter is a
jurisdictional defect that the parties cannot waive and the
appellate courts cannot disregard in the exercise of judicial
discretion. Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127,
1128 (1986). Accordingly, the court lacks appellate jurisdiction
over the appeal.

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

DATED: Honolulu, Hawai'i, June 9, 2016.

Presiding Judge

Associate Judge

Associate Judge