

NO. 25039

IN THE SUPREME COURT OF THE STATE OF HAWAII

KENNETH JELKS, Plaintiff-Appellant

vs.

DEPARTMENT OF PUBLIC SAFETY DIRECTOR TED SAKAI,
Defendant-Appellee

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(CIV. NO. 1SC00-02003)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that we do not have jurisdiction over the appeal by Plaintiff-Appellant Kenneth Jelks (Appellant Jelks). HRS § 641-1(a) (1993) authorizes appeals "in civil matters from all final judgments, orders, or decrees of . . . district courts[.]" "In district court cases, a judgment includes any order from which an appeal lies." Casumpang v. ILWU, Local 142, 91 Hawai i 425, 426, 984 P.2d 1251, 1252 (1999) (citation and internal quotation marks omitted).

Consequently, an order that fully disposes of an action in the district court may be final and appealable without the entry of judgment on a separate document, as long as the appealed order ends the litigation by fully deciding the rights and liabilities of all parties and leaves nothing further to be adjudicated.

Id. at 427, 984 P.2d at 1253. The January 24, 2002 judgment ended the litigation by fully deciding the rights and liabilities of all parties, and it left nothing further to be adjudicated. Therefore, the January 24, 2002 judgment was an appealable final judgment pursuant to HRS § 641-1(a) (1993).

However, Appellant Jelks did not file his notice of appeal within thirty days after entry of the January 24, 2002

judgment, as Rule 4(a)(1) of the Hawai i Rules of Appellate Procedure (HRAP) required. The failure of an appellant to file a timely notice of appeal in a civil matter is a jurisdictional defect that the parties cannot waive and the supreme court cannot disregard in the exercise of judicial discretion. Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986); HRAP Rule 26(b) (“[N]o court or judge or justice thereof is authorized to change the jurisdictional requirements contained in Rule 4 of [the HRAP].”). Therefore, we lack jurisdiction over this case. Accordingly,

IT IS HEREBY ORDERED that Appellant’s appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai i, October 11, 2002.