

NO. 28484

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

VAIDA L. GEORGE, Appellant-Appellant, v.
DIRECTOR, DEPARTMENT OF LABOR AND
INDUSTRIAL RELATIONS, Appellee-Appellee

K. HANAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

2007 APR 25 PM 2:33

FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(Civ. No. 02-1-1399)

ORDER DISMISSING APPEAL

(By: Lim, Presiding J., Foley, and Nakamura, JJ.)

Upon review of the record, it appears that we do not have jurisdiction over Appellant-Appellant Vaida L. George's (Appellant George) appeal from the December 15, order (the Order). "When a written judgment, order, or decree ends the litigation by fully deciding all rights and liabilities of all parties, leaving nothing further to be adjudicated, the judgment, order, or decree is final and appealable." Casumpang v. ILWU, Local 142, 91 Hawai'i 425, 426, 984 P.2d 1251, 1252 (1999) (citation omitted). The Order ended the litigation by fully deciding the rights of all the parties. Therefore, it was an appealable final judgment under Hawaii Revised Statutes (HRS) §§ 383-41 (Supp. 2006), 91-15 (1993), and 641-1(a) (Supp. 2006). However, Appellant George did not file her January 15, 2004 notice of appeal within thirty days after entry of the

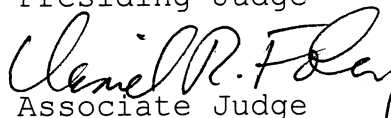
December 15, 2003 Order and, thus, violated the thirty-day time limit under Hawai'i Rules of Appellate Procedure (HRAP) Rule 4(a)(1) for filing a notice of appeal. Therefore, Appellant George's notice of appeal was not timely.

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, 1129 (1986); HRAP Rule 26(b) ("no court or judge or justice thereof is authorized to change the jurisdictional requirements contained in Rule 4 of [the HRAP]"). Therefore,

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

DATED: Honolulu, ~~Hawai'i~~, April 25, 2007.

Presiding Judge


Associate Judge


Associate Judge