

IN THE SUPREME COURT OF THE STATE OF HAWAII

ROSCOE FRINK,) CIV. NO. 97-2391
)
Plaintiff-Appellant,)
)
v.)
)
JOB CORPS OF HAWAII, INC.,)
)
Defendant-Appellee,)
)
and)
)
JOHN DOES 1-10,)
)
Defendants.)
_____)

ORDER DISMISSING APPEAL

Upon review of the statements supporting and contesting jurisdiction and the record, it appears that: (1) the February 11, 2000 judgment is the appealable final judgment in Civil No. 97-2391; (2) the finality of the February 11, 2000 judgment is not affected by the pending HRCF Rule 11 sanctions matter against plaintiff's counsel; (3) the time for appealing the final judgment is measured from entry of the judgment on February 11, 2000, not from service of the judgment by mail on February 14, 2000; HRAP 4(a)(1) ("[T]he notice of appeal shall be filed within 30 days after entry of the judgment or appealable order."); HRAP 4(a)(5) ("A judgment or order is entered when it is filed in the office of the clerk of the court.");

(4) Appellant's notice of appeal from the February 11, 2000 judgment was filed on March 16, 2000, thirty-four days after the judgment was entered; (5) the notice of appeal is untimely; HRS § 641-1(c); HRAP 4(a)(1); and thus, (6) we lack jurisdiction over this appeal; Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986) (the failure to file a timely notice of appeal in a civil matter is a jurisdictional defect that can neither be waived by the parties nor disregarded by the appellate court in the exercise of judicial discretion). Therefore,

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

DATED: Honolulu, Hawai'i, June 20, 2000.

RONALD T.Y. MOON, Chief Justice

STEVEN H. LEVINSON, Associate Justice

PAULA A. NAKAYAMA, Associate Justice

MARIO R. RAMIL, Associate Justice

SIMEON R. ACOBA, JR., Associate Justice