

NO. 25012

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

MEINI HAFOKA, aka WALLY HAFOKA, aka WORLI HAFOKA, Petitioner-
Appellant

vs.

STATE OF HAWAI'I, Respondent-Appellee

APPEAL FROM THE SECOND CIRCUIT COURT
(S.P.P. NO. 01-1-0011)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that: (1) the circuit court's December 27, 2001 order denying appellant's HRPP Rule 40 petition for post-conviction relief was appealable by notice of appeal filed within thirty days after the order was entered; see HRPP 40(h); HRAP 4(b)(1); (2) appellant's notice of appeal was filed on March 27, 2002, ninety days after entry of the December 27, 2001 order; (3) the March 27, 2002 notice of appeal purports to amend a January 23, 2002 writing by appellant advising the circuit court of his intent to appeal the December 27, 2001 order, but the record contains no evidence of the January 23, 2002 writing; (4) absent evidence of the January 23, 2002 writing, the March 27, 2002 notice of appeal is untimely; (5) our recognized exceptions to the requirement that notices of appeal be timely filed do not apply in this case inasmuch as appellant was given adequate notice of the entry of the December 27, 2001 order and this is not appellant's first

appeal from his convictions in Cr. Nos. 97-0169, 97-0376, 97-0790 and 97-0815; and thus (6) we lack jurisdiction over this appeal. See Grattafiori v. State, 79 Hawai'i 10, 13, 897 P.2d 937, 940 (1995) ("[C]ompliance with the requirement of the timely filing of a notice of appeal is jurisdictional, and we must dismiss an appeal on our own motion if we lack jurisdiction."). Therefore,

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

DATED: Honolulu, Hawai'i, July 2, 2002.