

***NOT FOR PUBLICATION ***

NO. 25593

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

In the Matter of the Adoption of a Female Child,
Born on December 5, 1995

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-A NO. 02-1-0147)

ORDER DISMISSING APPEAL

(By: Levinson, Acting C.J., and Nakayama, J.,
Circuit Judge Waldorf, in place of Moon, C.J., recused,
Circuit Judge Crandall, in place of Acoba, J., unavailable,
and Circuit Judge McKenna, assigned by reason of vacancy)

Upon review of the statements supporting and contesting jurisdiction and the record, it appears that notice of appeal from the December 12, 2002 adoption decree was filed by appellant on January 17, 2003, but the thirty-day period for appealing the decree expired on January 11, 2003. The time for appealing the decree was not extended by the December 31, 2002 motion for reconsideration filed more than ten days after entry of the decree. See HRAP 4(a)(3). The December 31, 2002 motion for reconsideration was not a motion for reconsideration required by HRS § 571-54 inasmuch as a proceeding for adoption of a child under HRS chapter 578 is not a proceeding to which the reconsideration provision of HRS § 571-54 applies. See HRS § 571-54. In re Doe Children, 94 Hawai'i 485, 17 P.3d 217 (2001) was a proceeding for the protection of children under HRS chapter 587 and was a proceeding based on HRS § 571-11(9) to which the reconsideration provision of HRS § 571-54 applied. The appeal of

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the December 12, 2002 adoption decree is untimely and we lack jurisdiction over this appeal. See HRAP 26(b); Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986) (The failure of an appellant 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 13, 2003.