

*** NOT FOR PUBLICATION ***

NO. 27333

IN THE SUPREME COURT OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee,

vs.

MELVIN A. FURTADO, Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(CITATION NOS. 5811055MO, 5811056MO and 5811057MO)

ORDER DISMISSING APPEAL

(By: Nakayama, J. for the court¹)

Upon review of the record, it appears that the district court's March 23, 2005 judgments were appealable by notice of appeal filed by April 22, 2005. See HRAP 4(a)(1) and 4(b)(1). The time for appealing the judgments was not extended by the April 22, 2005 motion for reconsideration. See HRAP 4(a)(3) and 4(b)(2). The notice of appeal filed on May 31, 2005 was untimely and we lack jurisdiction. 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 [in a criminal matter] is jurisdictional, and we must dismiss an appeal on our own motion if we lack jurisdiction."); Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986) (The timely filing of 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.);

¹Considered by: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.

2005 SEP -2 AM 8:45
HON. JUDGE SAUNDERS
HON. JUDGE LEVINSON
HON. JUDGE MOON
HON. JUDGE NAKAYAMA
HON. JUDGE ACOPA
HON. JUDGE DUFFY
HON. JUDGE FURTADO

FILED

*** NOT FOR PUBLICATION ***

HRAP 26(b) ("[N]o court or judge or justice is authorized to change the jurisdictional requirements [of the 30-day appeal period] contained in Rule 4 of [the HRAP]."). Therefore,

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

DATED: Honolulu, Hawai'i, September 2, 2005.

FOR THE COURT:

Funmi A. Takunda

Associate Justice