

IN THE SUPREME COURT OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee-Respondent,

vs.

ALICE BROWN, Defendant-Appellant-Petitioner.

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(REPORT NO. F-72159/KU)

ORDER DISMISSING MOTION FOR RELIEF FROM DEFAULT
(By: Moon, C.J., Levinson, and Nakayama, JJ.,
and Acoba, J., dissenting, with whom
Ramil, J., joins)

On May 14, 2001, this court denied the untimely application for writ of certiorari filed by petitioner-defendant-appellant Alice Brown, through her attorney, to review a decision of the Intermediate Court of Appeals (ICA) that was adverse to her. On May 18, 2001, Brown filed a "Motion for Relief from Default," pursuant to Hawai'i Rules of Appellate Procedure (HRAP) Rule 26(e), seeking relief from this court's May 14, 2001 order.

Appellate jurisdiction of this court is conferred by Hawai'i Revised Statutes § 602-59(c) (Supp. 2000), which governs certiorari applications to review dispositions of the ICA and requires that said applications be filed within thirty days of the ICA's final disposition. Moreover, HRS § 602-59 makes no

provision for extending the thirty-day period to petition for a writ of certiorari. Because Brown did not file her application within thirty days of the ICA's April 3, 2001 order denying her motion for reconsideration of the ICA's decision, this court lacked jurisdiction to review the application. This court also lacks jurisdiction to now review Brown's HRAP Rule 26(e) motion. See also HRAP Rule 1(b) (the rules of appellate procedure "shall not be considered to extend or limit the jurisdiction of the Hawai'i appellate courts as established by law."). Accordingly,

IT IS HEREBY ORDERED that Brown's "Motion for Relief from Default" is dismissed for lack of appellate jurisdiction, without prejudice to Brown's ability to seek any remedies from what this court deems to be an illegal sentence that may be available to her in the trial court pursuant to Hawai'i Rules of Penal Procedure Rule 35.

DATED: Honolulu, Hawai'i, September 12, 2001.

Alfred P. Lerma, Jr.,
for petitioner-defendant-
appellant, on the motion