

NO. 24589

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee,

vs.

GARY THOMAS LEE, Defendant-Appellant.

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(TRAFFIC NO. 5163649MO)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that we do not have appellate jurisdiction over Defendant-Appellant Gary Thomas Lee's (Appellant Lee) appeal from his August 20, 2001 conviction for violating HRS § 291-11.6 (Supp. 2001) because Appellant Lee did not file his September 24, 2001 notice of appeal within thirty days after entry of the August 20, 2001 judgment, as HRS § 641-12 (1993) and Rule 4(b)(1) require. Neither of the two exceptions to the requirement for a timely filed notice of appeal apply. See State v. Irvine, 88 Hawai'i 404, 407, 967 P.2d 236, 239 (1998) ("Our recognized exceptions involve circumstances where: (1) defense counsel has inexcusably or ineffectively failed to pursue a defendant's appeal from a criminal conviction in the first instance[,]. . . or (2) the trial court's decision was unannounced and no notice of the entry of judgment was ever provided[.]" (Citations omitted)). Therefore,

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

DATED: Honolulu, Hawai'i, March 15, 2002.