

NO. 24930

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STEVE TATAII, Plaintiff-Appellant

vs.

MIKE GABBARD; ALLIANCE FOR TRADITIONAL MARRIAGE AND VALUES
(FORMERLY KNOWN AS "ATM" OR ALLIANCE FOR TRADITIONAL MARRIAGE)

APPEAL FROM THE FIRST CIRCUIT COURT
(CIV. NO. 00-1-3334)

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. In civil cases, the general rule is that an aggrieved party may appeal only from "final judgments, orders, or decrees[.]" HRS § 641-1(a) (1993). Rule 4(a)(1) of the Hawai'i Rules of Appellate Procedure (HRAP) requires that "the notice of appeal shall be filed within 30 days after entry of the judgment or appealable order." 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. Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986); HRAP Rule 26(b) ("[N]o court or judge or justice thereof is authorized to change the jurisdictional requirements contained in Rule 4 of [the HRAP]."). The final and appealable judgment, order, or decree in this case was the January 18, 2002 judgment.

Although some post-judgment motions extend the thirty-

day period pursuant to HRAP Rule 4(a)(3), Plaintiff-Appellant Steve Tataii's (Appellant Tataii) January 24, 2002 motion did not extend the time for filing the notice of appeal because it neither (a) sought reconsideration of the judgment, nor (b) sought attorneys' fees and costs. See HRAP Rule 4(a)(3). Appellant Tataii filed his February 21, 2002 notice of appeal more than thirty days after entry of the January 18, 2002 judgment. Therefore, Appellant Tataii's appeal is untimely. Accordingly,

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

DATED: Honolulu, Hawai'i, May 30, 2002.