

NO. 25164

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

HIROKI MATSUMOTO, Plaintiff-Appellee

vs.

CALVIN MATSUMOTO, Defendant-Appellant

APPEAL FROM THE FIRST CIRCUIT COURT
(FC-DIVORCE NO. 96-2581)

ORDER DISMISSING APPEAL

(By: Moon, C.J., Levinson, Nakayama and Acoba, JJ.
and Circuit Judge Blondin, assigned by reason of vacancy)

Upon review of appellant's statement of jurisdiction and the record, it appears that the notice of appeal filed on June 14, 2002 was filed more than thirty days after entry of the April 11, 2002 order granting the motion for post-decree relief and is an untimely appeal of the April 11, 2002 order. HRAP 4(1)(a). There is no evidence in the record that supports appellant's claim that a timely notice of appeal was tendered for filing, but rejected by the family court. Thus, we lack jurisdiction over this appeal. 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, January 14, 2003.