

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 25759

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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DEPARTMENT OF HAWAIIAN HOME LANDS, STATE OF HAWAI'I,  
Plaintiff-Appellee

vs.

PATRICK L. KAHAWAIOLA'A, RICHARD KELA, BENI-JO KUAMOO,  
JUNE L. BRADY, NORMAN K. MACOMBER, SR., STEVEN K. ANGAY,  
Defendants-Appellants

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APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT  
(CIV. NO. 03-0340SH)

ORDER DISMISSING APPEAL

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

Upon review of the record, it appears that the district court of the third circuit was divested of jurisdiction over Civil No. 03-0340SH on November 20, 2002 when appellants effected a removal of Civil No. 03-0340SH to the federal court. The divestiture of district court jurisdiction on November 20, 2002 tolled the time for appealing the October 22, 2002 judgment for possession until district court jurisdiction was restored. District court jurisdiction was restored on May 7, 2003 when the clerk of the federal court mailed a certified copy of the May 5, 2003 remand order to the clerk of the district court. See Mathewson v. Aloha Airlines, 82 Hawai'i 57, 74, 919 P.2d 969, 986 (1996); 28 U.S.C. § 1447(c) (1996). Appellants' notice of appeal was filed in the district court on April 9, 2003 before district court jurisdiction was restored. The notice of appeal is of no

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effect. A new notice of appeal was not filed by appellants within thirty days after May 7, 2003. HRAP 4(a)(1). Therefore, we lack jurisdiction over this appeal. Accordingly,

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

DATED: Honolulu, Hawai'i, December 11, 2003.