*** NOT FOR PUBLICATION ***

NO. 25907

IN THE SUPREME COURT OF THE STATE OF HAWAIʻI

CHILD SUPPORT ENFORCEMENT AGENCY, STATE OF HAWAIʻI,
Petitioner-Appellee

vs.

JANE DOE, Respondent-Appellant

and

MARY ROE, RICHARD SMITH, and LLOYD Y. ASATO, as Special Administrator of the Estate of RICHARD SMITH,
Respondents-Appellees

APPEAL FROM THE FIRST CIRCUIT COURT
(FC-P NO. 97-0824)

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

Upon review of the record, it appears that we do not have jurisdiction over this appeal. Defendant-Appellant Esther Keakaokalani Kanakanui's (Appellant Kanakanui) appeal from the March 24, 2003 order denying relief under Rule 60(b) of the Hawaiʻi Family Court Rules (HFCR) is not timely because Appellant Kanakanui did not file her June 23, 2003 notice of appeal within thirty days after entry of the March 24, 2003 order, as Rule 4 of the Hawaiʻi Rules of Appellate Procedure (HRAP) required. Appellant Kanakanui's April 14, 2003 motion for reconsideration did not extend the time period for filing a notice of appeal pursuant to HRAP Rule 4(a)(3), because Appellant Kanakanui did not file her April 14, 2003 motion for reconsideration within ten days after entry of the March 24, 2003 order, as HRAP Rule 4(a)(3) required. The failure of a party to file a timely notice of appeal is a jurisdictional defect that the parties cannot waive and we cannot disregard in the exercise of judicial discretion. Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127,

1129 (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].").

Although Appellant Kanakanui also appealed from the May 28, 2003 order denying Appellant Kanakanui's April 14, 2003 motion for reconsideration, it appears that Appellant Kanakanui's motion for reconsideration was unauthorized. Appellant Kanakanui did not file her April 14, 2003 motion for reconsideration within ten days after entry of the March 24, 2003 order, as HFCR Rule 59(e) required. This paternity proceeding was not based upon subsections (1), (2), (6), or (9) of HRS § 571-11 (1993), and, thus, HRS § 571-54 (1993) did not authorize Appellant Kanakanui to move for reconsideration. Furthermore, HFCR Rule 60(b) did not authorize Appellant Kanakanui's motion for reconsideration because she merely repeated arguments that the family court had already rejected through the March 24, 2003 order. Cf. Isemoto Contracting Co., Ltd. v. Andrade, 1 Haw. App. 202, 204 n.2, 616 P.2d 1022, 1025 n.2 (1980); Cuerva v. Wong, 1 Haw. App. 194, 199, 616 P.2d 1017, 1021 (1980). Without any supporting authority for Appellant Kanakakui's April 14, 2003 motion for reconsideration, the May 28, 2003 order denying Appellant Kanakanui's motion for reconsideration was not an independently appealable post-judgment order under HRS § 571-54 (1993). 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, October 20, 2003.