

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 26981

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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ROLAND ISAIAH KEHANO, SR., Petitioner-Appellant

vs.

STATE OF HAWAI'I, Respondent-Appellee

---

APPEAL FROM THE SECOND CIRCUIT COURT  
(S.P.P. NO. 03-1-0017)

ORDER DISMISSING APPEAL

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

Upon review of appellant's statement of jurisdiction, appellee's motion to dismiss appeal, the papers in support and in opposition and the record, it appears that the circuit court's March 8, 2004 order denying appellant's HRPP Rule 40 petition for post-conviction relief was appealable by notice of appeal filed within thirty days after the order was entered. See HRPP 40(h) ("[a]ny party may appeal to the supreme court from a judgment entered in the proceeding in accordance with [HRAP] 4(b)."); HRAP 4(b)(1) ("the notice of appeal shall be filed in the circuit, district, or family court within 30 days after the entry of the judgment or order appealed from."). Appellant's notice of appeal was filed on December 2, 2004, almost nine months after entry of the March 8, 2004 order and is untimely. Our recognized exceptions to the requirement that notices of appeal be timely filed do not apply in this case and thus, we lack jurisdiction. See Grattafiori v. State, 79 Hawai'i 10, 13, 897 P.2d 937, 940

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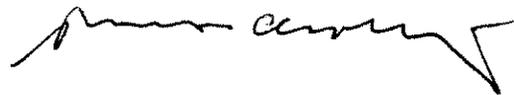
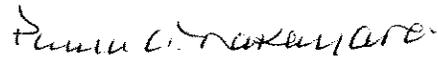
(1995) ("[C]ompliance with the requirement of the timely filing of a notice of appeal is jurisdictional, and we must dismiss an appeal on our own motion if we lack jurisdiction."). Therefore,

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

DATED: Honolulu, Hawai'i, March 14, 2005.



Steven H. Levinson



Rama E. Dullay Jr.