

*** NOT FOR PUBLICATION ***

NO. 27340

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

STATE OF HAWAI'I, Plaintiff-Appellee

vs.

EUGENE P. GORDON, Defendant-Appellant

 APPEAL FROM THE FIRST CIRCUIT COURT
 (CR. NO. 98-2082)

 KHAMAKADO
 CLERK, APPELLATE COURTS
 STATE OF HAWAI'I

2005 NOV - 8 PM 1:30

FILED

ORDER DISMISSING APPEAL(By: Nakayama, J. for the court¹)

Upon review of the record, it appears that the circuit court's April 5, 2005 order denying appellant's HRPP Rule 35 motion for correction of sentence was appealable by notice of appeal filed with the circuit court within thirty days after the order was entered. See HRAP 4(b)(1). Appellant's notice of appeal was filed with the circuit court on June 7, 2005, sixty-three days after entry of the April 5, 2005 order and was untimely. Our recognized exceptions to the requirement that notices of appeal be timely filed do not apply in this case. Thus, we lack jurisdiction. See Grattafiori v. State, 79 Hawai'i 10, 13, 897 P.2d 937, 940 (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,

¹Considered by: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.

*** NOT FOR PUBLICATION ***

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

DATED: Honolulu, Hawai'i, November 8, 2005.

FOR THE COURT:

Anna L. Nakayama

Associate Justice

