

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 24932

IN THE SUPREME COURT OF THE STATE OF HAWAII

KHAMAKADO  
 CLERK, APPELLATE COURTS  
 STATE OF HAWAII

2006 APR -5 PM 1:17

FILED

STEVE TATAII, Plaintiff-Appellant,

vs.

GORDON Y.K. PANG, FRANK BRIDGEWATER, JOHN FLANAGAN, HONOLULU  
 STAR-BULLETIN, LIBERTY NEWSPAPERS LIMITED PARTNERSHIPS DBA  
 HONOLULU STAR-BULLETIN, ET AL., Defendants-Appellees.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT  
 (S.P. NO. 00-1-0474)

SUMMARY DISPOSITION ORDER

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

The plaintiff-appellant Steve Tataii appeals the January 22, 2002 order of the first circuit court, the Honorable Eden Elizabeth Hifo presiding, denying his motion for reconsideration of the circuit court's November 7, 2001 order granting summary judgment and final judgment in favor of, inter alia, the defendants-appellees Honolulu Star-Bulletin, Liberty Newspapers Ltd. Partnership, Gordon Pang, Frank Bridgewater and John Flanagan [hereinafter, collectively, "the Appellees"] and against Tataii.

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised, we hold that this court lacks jurisdiction to hear the appeal, pursuant to Hawai'i Rules of Appellate Procedure (HRAP) Rule 4(a)(1) and Hawai'i Rules of Civil Procedure (HRCP) Rules 6(b) and 59(e).

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As to Tataii's December 3, 2001 motion for reconsideration, the circuit court had no power to grant an extension for filing that motion past the original ten-day deadline set out in HRCF Rule 59(e): under that rule, any motion to alter or amend judgment "shall be filed no later than 10 days after the entry of judgment." That ten-day period may not be extended. HRCF Rule (6)(b) states in pertinent part that "the court for cause shown may at any time in its discretion . . . order [a] period [for acting] enlarged . . . ; but it may not extend the time for taking action under [HRCF] Rule [] . . . 59 . . . (e)." Accordingly, any HRCF Rule 59(e) motion filed outside the ten-day deadline is untimely.

Therefore, pursuant to HRCF Rule 59(e), Tataii had until November 17, 2001 to file his motion for reconsideration of the November 7, 2001 judgment. He in fact filed it on December 3, 2001. The motion was therefore untimely, and, as such, the circuit court lacked jurisdiction to consider it. Consequently, the circuit court's January 22, 2002 denial from which Tataii appeals was a nullity. Accordingly, this court has no appellate jurisdiction to consider the present appeal. See Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986) (holding that, when faced with a jurisdictional defect, this court has no discretion, but must sua sponte dismiss the appeal) (citing Familian N.W., Inc. v. Cent. Pac. Boiler & Piping, Ltd., 68 Haw. 368, 368, 714 P.2d 936, 937 (1986); BDM, Inc. v. Sageco, Inc., 57 Haw. 73, 73, 549 P.2d 1147, 1148 (1976); Naki v. Hawaiian Elec.

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Co., 50 Haw. 85, 86, 431 P.2d 943, 944 (1967)).<sup>1</sup>

Therefore,

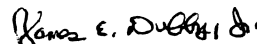
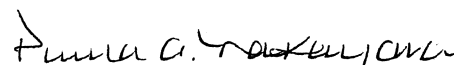
IT IS HEREBY ORDERED that the appeal is dismissed.

DATED: Honolulu, Hawai'i, April 5, 2006.

On the briefs:

Plaintiff-appellant  
Steve Tataii, pro se

Edmund K. Saffrey of  
Goodsill Anderson Quinn & Stiffel  
for defendants-appellees  
Gordon Y.K. Pang, Frank  
Bridgewater, John Flanagan,  
Honolulu Star-Bulletin,  
Liberty Newspapers Limited  
Partnerships dba Honolulu  
Star-Bulletin



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<sup>1</sup> It should also be noted that an untimely HRCF Rule 59(e) motion also fails to trigger the HRAP Rule 4(a)(3) tolling of the 30 day period for appealing a judgment set forth in HRAP Rule 4(a)(1). Therefore Tataii had only until December 7, 2001 to file an appeal of the November 7, 2001 judgment, a deadline that had passed long before he filed his February 21, 2002 appeal from the order denying his motion for reconsideration.