

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 26662

IN THE SUPREME COURT OF THE STATE OF HAWAII

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 IN THE INTEREST OF JANE DOE, Born on October 25, 2004
 

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 APPEAL FROM THE FAMILY COURT OF THE FIFTH CIRCUIT  
 (FC-S NO. 02-00549)
ORDER DISMISSING APPEAL(By: Nakayama, J., for the court<sup>1</sup>)

Upon review of the record, it appears that the right to appeal the December 17, 2003 order awarding permanent custody was conditioned upon the filing of a motion for reconsideration of the order by January 6, 2004, twenty days after entry of the December 17, 2003 order. See HRS § 571-54; HRAP 4(a)(1); In re Doe, 77 Hawai'i 109, 113, 883 P.2d 30, 34 (1994); In re Doe, 3 Haw. App. 391, 394, 651 P.2d 492, 494 (1982). The family court granted appellant an extension of the twenty-day period because the December 17, 2003 order was not settled in accordance with HFCR 58(a) and was not served on appellant until January 7, 2004. However, the twenty-day period for filing a motion for reconsideration was a statutory jurisdictional requirement that could not be disregarded by the family court in the exercise of judicial discretion. In re Doe, 105 Hawai'i 505, 507, 100 P.3d 75, 78 (2004) ("[The] failure to file a timely [HRS § 571-54] motion for reconsideration . . . is a jurisdictional defect with respect to the subject matter that cannot be waived by the parties nor disregarded by the court in the exercise of judicial discretion."). Although appellant did not receive timely notice of the entry of the December 17, 2003 order, appellant was not prevented from filing a timely motion for reconsideration inasmuch as appellant received on December 5, 2003 the family

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<sup>1</sup>Considered by: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.

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 DEPARTMENT OF LAND AND NATURAL RESOURCES  
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court's written decision awarding permanent custody to appellee that directed appellee to prepare an order on the decision. See Bacon v. Karlin, 68 Haw. 648, 652, 727 P.2d 1127, 1131 (1986) (though appellant did not receive prompt notice of the entry of a final order, appellant had advance knowledge that the order would be filed and was not prevented from filing a timely notice of appeal.) Appellant filed her motion for reconsideration of the December 17, 2003 order on January 16, 2004, thirty days after entry of the order. Thus, the jurisdictional requirement for appealing the December 17, 2003 order was not met and we lack jurisdiction over this appeal. See In re Doe, 105 Hawai'i at 507, 100 P.3d at 78 ("a timely motion for reconsideration is a prerequisite to appeal from orders entered in the proceedings enumerated in HRS § 571-54, and . . . absent compliance with the statute, we lack appellate jurisdiction[.]"). Therefore,

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

DATED: Honolulu, Hawai'i, April 10, 2006.

FOR THE COURT:

*Funa C. Nakayama*  
Associate Justice

