

\*\*\* NOT FOR PUBLICATION \*\*\*

NO. 27434

IN THE SUPREME COURT OF THE STATE OF HAWAII

NORMA T. YARA  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

2006 FEB -9 PM 2:07

FILED

STATE OF HAWAII, Plaintiff-Appellee

vs.

CHARLES IRA BALCHER, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT  
(CASE NO. CONA5 of 5/5/05)ORDER DISMISSING APPEAL(By: Nakayama, J. for the court<sup>1</sup>)

Upon review of the record, it appears that the district court's May 5, 2005 judgment was appealable by notice of appeal filed within thirty days after the judgment was filed. See HRAP 4(b)(1). The district court, the Honorable Leslie Hayashi presiding, extended the time for appeal until August 5, 2005, but the time for appeal could have been extended only until July 5, 2005. See HRAP 4(b)(5) ("[T]he district court may . . . extend the time for filing a notice of appeal for a period not to exceed 30 days from the expiration of [the original 30-day deadline]"). The notice of appeal filed on August 4, 2005 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

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

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jurisdiction."). Therefore,

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

DATED: Honolulu, Hawai'i, February 9, 2006.

FOR THE COURT:

*Anna A. Nakamura*  
Associate Justice

