

NO. CAAP-13-0000529

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

In the Matter of the Conservatorship
and Guardianship of ELLEN K. KUBO

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CG NO. 07-1-007)

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Nakamura, C.J, Leonard and Reifurth, JJ.)

Upon review of the record on appeal, it appears this court lacks appellate jurisdiction because Interested-Person-Appellant Gwen Kubo's (Appellant) Notice of Appeal was untimely filed. Appellant appeals from Order Granting Petition of Conservator for Confirmation of Sale of Real Property, filed on March 27, 2013 and a Judgment on Order Granting Petition of Conservator for Confirmation of Sale of Real Property, filed on March 27, 2013, both of which were certified pursuant to Hawai'i Rules of Civil Procedure Rule 54(b). Appellant was required to file a notice of appeal within 30 days after entry of the

judgment or appealable order. Hawai'i Rules of Appellate Procedure (HRAP) Rule 4(a)(1). Thus, Appellant had until Friday April 26, 2013 to file a Notice of Appeal. Appellant did not file a Notice of Appeal until April 29, 2013. Therefore, Appellant's Notice of Appeal was untimely filed.

The failure to file a timely notice of appeal in a civil matter is a jurisdictional defect that the parties cannot waive and the appellate courts cannot disregard in the exercise of judicial discretion. Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1128 (1986); HRAP Rule 26(b) ("[N]o court or judge or justice thereof is authorized to change the jurisdictional requirements contained in Rule 4 of [the HRAP].").

IT HERE HEREBY ORDERED that the appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, September 5, 2013.

Chief Judge

Associate Judge

Associate Judge