

NO. CAAP-13-0005718

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
Q. BRITT CORMIER, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
(CASE NO. 1RC13-1-001530)

ORDER

GRANTING JANUARY 28, 2014 MOTION TO CONSOLIDATE APPELLATE
COURT CASE NUMBERS CAAP-13-0004623 AND CAAP-13-0005575

AND

DISMISS APPELLATE COURT CASE NUMBER CAAP-13-0005718
(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Upon review of (1) Plaintiff-Appellee State of Hawai'i Department of Labor and Industrial Relations' (Appellee State DLIR) January 28, 2014 motion to consolidate appellate court case numbers CAAP-13-0004623 AND CAAP-13-0005575 and dismiss appellate court case number CAAP-13-0005718, (2) the lack of any timely memorandum by Defendant-Appellant Q. Britt Cormier (Appellant Cormier) in opposition to Appellee State DLIR's January 28, 2014 motion in appellate court case number CAAP-13-0005718, and (3) the record, it appears that the proposed consolidation of appellate court case numbers CAAP-13-0004623 and CAAP-13-0005575

is warranted and, more significantly in appellate court case number CAAP-13-0005718, we lack appellate jurisdiction over Appellant Cormier's appeal in appellate court case number CAAP-13-0005718 from the Honorable Paul B.K. Wong's October 25, 2013 judgment, because Appellant Cormier's November 26, 2013 notice of appeal in appellate court case number CAAP-13-0005718 is untimely as to the October 25, 2013 judgment under Rule 4 of the Hawai'i Rules of Appellate Procedure (HRAP).

"When a civil appeal is permitted by law, the notice of appeal shall be filed within 30 days after entry of the judgment or appealable order." HRAP Rule 4(a)(1). Appellant Cormier filed timely notices of appeal in appellate court case numbers CAAP-13-0004623 and CAAP-13-0005575, which this court is consolidating under appellate court case number CAAP-13-0005575 through separate court orders in appellate court case numbers CAAP-13-0004623 and CAAP-13-0005575. In contrast, however, Appellant Cormier did not file her November 26, 2013 notice of appeal in appellate court case number CAAP-13-0005718 within thirty days after entry of the October 25, 2013 judgment, as HRAP Rule 4(a)(1) requires. 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 is authorized to change the jurisdictional requirements contained in Rule 4 of these rules."); HRAP Rule 26(e) ("The reviewing court for good cause

shown may relieve a party from a default occasioned by any failure to comply with these rules, except the failure to give timely notice of appeal."). Consequently, we lack appellate jurisdiction over Appellant Cormier's untimely appeal in appellate court case number CAAP-13-0005718. Accordingly,

IT IS HEREBY ORDERED that Appellee State DLIR's January 28, 2014 motion to consolidate appellate court case numbers CAAP-13-0004623 AND CAAP-13-0005575 and dismiss appellate court case number CAAP-13-0005718 is granted, and appellate court case number CAAP-13-0005718 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, February 13, 2014.

Presiding Judge

Associate Judge

Associate Judge