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Supreme Court
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NO. SCWC-11-0000496

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

KEITH MURAUSKAS, Petitioner/Plaintiff-Appellant,

vs.

DEPARTMENT OF PUBLIC SAFETY, STATE OF HAWAI'I,
Respondent/Defendant-Appellee.

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(ICA NO. CAAP-11-0000496; CIV. NO. 09-1-1272-06)

ORDER DISMISSING APPLICATION FOR WRIT OF CERTIORARI
(By: Recktenwald, C.J., Nakayama, Acoba, and Duffy, JJ.,
and Circuit Judge Border, in place of McKenna, J., recused)

Petitioner/plaintiff-appellant Keith Murauskas filed an application for a writ of certiorari to review of the Intermediate Court of Appeals' (ICA) dismissal of petitioner's appeal for lack of appellate jurisdiction. The time for filing an application for a writ of certiorari commenced upon the filing of the ICA's September 15, 2011 order of dismissal, not the ICA's October 6, 2011 order denying reconsideration of the dismissal. See HRS § 602-59(c) (Supp. 2010) ("An application for a writ of certiorari may be filed in the supreme court no later than ninety days after the filing of the judgment or dismissal order of the intermediate appellate court.") (underscoring added).

Petitioner's application for a writ of certiorari -- deemed filed on January 2, 2012 when it was delivered to prison officials for mailing -- was filed more than ninety days after the filing of the September 15, 2011 order of dismissal. The application is untimely. Therefore,

IT IS HEREBY ORDERED that the application for a writ of certiorari is dismissed.

DATED: Honolulu, Hawai'i, February 21, 2012.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ James E. Duffy, Jr.

/s/ Patrick W. Border

