NO. 30610

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAIʻI

H. ISABELLE MCGARRY TRUST OF MARCH 19, 1971,
Judgment-Creditor/Third-Party Defendant/Appellee,

v.

ROBERT HOFELICH and ANN MARIE HOFELICH,
Judgment-Debtors/Appellees

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(S.P. NO. 97-0004K)

ORDER DENYING MOTION FOR RECONSIDERATION OF DISMISSAL ORDER
(By: Fujise, Presiding Judge, Reifurth and Ginoza, JJ.)

Upon review of (1) the November 23, 2010 order dismissing appellate court case number 30610 (dismissal order) for lack of appellate jurisdiction, (2) Howard Hofelich's (Hofelich) December 13, 2010 motion for reconsideration of the dismissal order pursuant to Rule 40 of the Hawaiʻi Rules of Appellate Procedure (HRAP), and (3) the record, it appears that Hofelich's December 13, 2010 motion for reconsideration of the dismissal order is untimely and lacks merit.

"A motion for reconsideration may be filed by a party only within 10 days after the filing of the opinion, dispositional order, or ruling unless by special leave additional time is granted during such period by a judge or justice of the appellate court involved." HRAP Rule 40(a). Hofelich did not file his December 13, 2010 HRAP Rule 40 motion for reconsideration (motion for reconsideration) within ten days after the filing of the dismissal order, as HRAP Rule 40(a) requires. Therefore, Hofelich's motion for reconsideration is untimely.

Furthermore, when we filed the dismissal order, we did not overlook or misapprehend any points of law or fact. Therefore, Hofelich's motion for reconsideration lacks merit. Accordingly,

Hofelich's motion for reconsideration of the dismissal order is denied.

DATED: Honolulu, Hawaiʻi, December 17, 2010.

Presiding Judge

Associate Judge

Associate Judge