

NO. CAAP-11-0000773

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

BARBARA ELLEN SHERRILL, Petitioner-Appellant
v.
ESTATE OF THOMAS MICHAEL PICO, JR.,
also known as, THOMAS M. PICO, JR., Respondent-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(P. NO. 10-1-0254 (Formal))

ORDER DENYING PETITIONER-APPELLANT BARBARA ELLEN SHERRILL'S
(1) MOTION TO ACCEPT LATE FILING OF MOTION FOR RECONSIDERATION
AND (2) MOTION FOR RECONSIDERATION

(By: Nakamura, Chief Judge, and Leonard and Ginoza, JJ.)

On January 5, 2015, Petitioner-Appellant Barbara Ellen Sherrill (Sherrill) filed (1) a "Motion to Accept Late Filing of Motion for Reconsideration" and (2) a "Motion for Reconsideration." Sherrill's Motion for Reconsideration requests reconsideration of this Court's Memorandum Opinion, which was filed on December 5, 2014.

Hawai'i Rules of Appellate Procedure (HRAP) Rule 40 (2000) provides in relevant part:

(a) Time. 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.

(Emphasis added.)

Sherrill did not file her Motion for Reconsideration within ten days after the filing of the Memorandum Opinion as required by HRAP Rule 40. In addition, HRAP Rule 40 only permits an extension of time to file a motion for reconsideration through special leave granted within ten days after the filing of a memorandum opinion. Because Sherrill did not request an extension of time to file her Motion for Reconsideration within ten days after the filing of the Memorandum Opinion, this court had no opportunity to consider whether to grant her additional time by special leave during the ten day period.

Accordingly, pursuant to HRAP Rule 40(a), (1) we deny Sherrill's "Motion to Accept Late Filing of Motion for Reconsideration"; and (2) we deny Sherrill's "Motion for Reconsideration" as untimely.

DATED: Honolulu, Hawai'i, January 16, 2015.

On the motion:

Barbara E. Sherrill
Petitioner-Appellant
Pro Se

Chief Judge

Associate Judge

Associate Judge