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Intermediate Court of Appeals
CAAP-15-0000365
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NO. CAAP-15-0000365

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

CORIN S.N.M. GENTRY, fka CORIN S.N.M. GENTRY-BALDING,
Plaintiff-Appellee,

v.

WILLIAM T. BALDING, IV, Defendant-Appellant

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-D NO. 13-1-7639)

ORDER GRANTING MAY 14, 2015 MOTION TO
DISMISS APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Foley, Presiding Judge, Leonard and Ginoza, JJ.)

Upon review of (1) Plaintiff-Appellee Corin S.N.M. Gentry's (Appellee Gentry) May 14, 2015 motion to dismiss appellate court case number CAAP-15-0000365 for lack of appellate jurisdiction, and (2) the record, it appears that we do not have appellate jurisdiction over Defendant-Appellant William T. Balding, IV's (Appellant Balding) appeal from the Honorable Darryl Y.C. Choy's March 12, 2015 divorce decree, because Appellant Balding's appeal is untimely pursuant to Rule 4(a)(1) of the Hawai'i Rules of Appellate Procedure (HRAP).

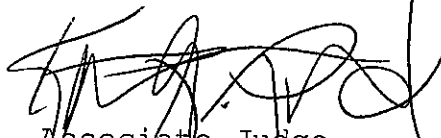
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The March 12, 2015 divorce decree was appealable pursuant to Hawaii Revised Statutes (HRS) § 571-54 (2006) and the holding in Eaton v. Eaton, 7 Haw. App. 111, 118-19, 748 P.2d 801, 805 (1987). However, Appellant Balding did not file his April 15, 2015 notice of appeal within thirty days after entry of the March 12, 2015 divorce decree, as HRAP Rule 4(a)(1) required. Therefore, Appellant Balding's appeal is untimely. 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 appellate court case number CAAP-15-0000365.

Accordingly, IT IS HEREBY ORDERED that Appellee Gentry's May 14, 2015 motion to dismiss is granted, and appellate court case number CAAP-15-0000365 is dismissed.

DATED: Honolulu, Hawai'i, May 21, 2015.


Daniel R. Foley
Presiding Judge


Associate Judge


Associate Judge