

NO. CAAP-15-0000443

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

JESSICA SPENCE-CHIN, Plaintiff-Appellee, v.  
CHRISTOPHER CONRAD SPENCE, Defendant-Appellant

APPEAL FROM THE FAMILY COURT OF THE THIRD CIRCUIT  
(FC-D NO. 12-1-342)

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION  
(By: Foley, Presiding Judge, Leonard and Ginoza, JJ.)

Upon review of the record, it appears that we lack appellate jurisdiction over Defendant-Appellant Christopher Conrad Spence's (Appellant Christopher Spence) appeal from the Honorable Lloyd Van De Car's March 24, 2015 divorce decree, because Appellant Christopher Spence's appeal is untimely pursuant to Rule 4(a)(1) of the Hawai'i Rules of Appellate Procedure (HRAP).

The March 24, 2015 divorce decree was appealable pursuant to Hawaii Revised Statutes § 571-54 (2006) and the holding in Eaton v. Eaton, 7 Haw. App. 111, 118-19, 748 P.2d 801, 805 (1987). However, Appellant Christopher Spence did not file his May 26, 2015 notice of appeal within thirty days after entry

of the March 24, 2015 divorce decree, as HRAP Rule 4(a)(1) required. Therefore, Appellant Christopher Spence'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.

Accordingly, IT IS HEREBY ORDERED that appellate court case number CAAP-15-0000443 is dismissed.

DATED: Honolulu, Hawai'i, March 28, 2016.

Presiding Judge

Associate Judge

Associate Judge