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Intermediate Court of Appeals
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NO. CAAP-16-0000103

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

WILLIAM MIDDLETON, Plaintiff-Appellant,
v.
STATE OF HAWAII, DEPARTMENT OF HUMAN SERVICES,
Defendant-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE THIRD CIRCUIT
(CIVIL NO. 14-1-0437)

ORDER DENYING THE JUNE 16, 2016 MOTION FOR RECONSIDERATION
(By: Foley, Presiding Judge, Reifurth and Ginoza, JJ.)

Upon consideration of the Motion for Reconsideration of Order Dismissing the Appeal for Lack of Jurisdiction, filed on June 16, 2016 by Plaintiff-Appellant William Middleton (Appellant), the Memorandum in Opposition to Appellant's Motion for Reconsideration, filed on June 17, 2016 by Defendant-Appellee State of Hawaii, Department of Human Services, and the records herein, it appears that Appellant argues that he timely filed a Notice of Appeal on February 24, 2016, within 30 days after a January 27, 2016 Notice of Entry of Judgment, instead of entry of

the January 19, 2016 Judgment. Thus, Appellant contends that his appeal was timely pursuant to Rule 4(a) of the Hawai'i Rules of Appellate Procedure (HRAP).


"Immediately upon entry of a judgment, or an order for which notice of entry is required by these rules, the clerk shall serve a notice of the entry by mail in the manner provided for in Rule 5 upon each party[.]" HRCP Rule 77(d). "Lack of notice of the entry by the clerk or failure to make such service, does not affect the time to appeal or relieve or authorize the court to relieve a party for failure to appeal within the time allowed, except as permitted in Rule 4(a) of the Hawai'i Rules of Appellate Procedure." HRCP Rule 77(d); Enos v. Pacific Transfer & Warehouse, Inc., 80 Hawai'i 345, 353, 910 P.2d 116, 124 (1996). No exceptions under HRAP Rule 4(a) apply in this case. Therefore, the time to appeal was triggered by the entry of the January 19, 2016 Judgment and Appellant's notice of appeal was untimely.

IT IS HEREBY ORDERED that the motion for reconsideration is denied.

DATED: Honolulu, Hawai'i, June 21, 2016.


Presiding Judge


Associate Judge


Associate Judge