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Supreme Court
SCRU-10-000012
03-JUL-2019
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SCRU-10-000012

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

In the Matter of the

HAWAI‘I RULES OF APPELLATE PROCEDURE

ORDER AMENDING THE HAWAI‘I RULES OF APPELLATE PROCEDURE

(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

IT IS HEREBY ORDERED that Rules 4, 4.1, and 40.1 of the Hawai‘i Rules of Appellate Procedure are amended, effective January 1, 2020, as follows (deleted material is bracketed and stricken; new material is underscored):

Rule 4. APPEALS - WHEN TAKEN.

(a) Appeals in civil cases.

(1) TIME FOR FILING. When a civil appeal is permitted by law, the notice of appeal shall be filed within 30 days after entry of the judgment or appealable order. However, if the notice of appeal is mailed, the notice of appeal shall be deemed timely filed if the mailing is postmarked within the time fixed for filing and is received by the clerk no later than 5 days after the postmarked date. For the purposes of calculating other deadlines in these Rules, the date of filing under this Rule shall be the date the document is received by the clerk.

A motion for leave to file an interlocutory appeal from an order of the circuit court must be filed within 30 days of the court’s entry of the order. If such a motion is filed and granted, then the notice of appeal shall be filed within 30 days after entry of the circuit court’s order granting permission for leave to file an interlocutory appeal.

(2) PREMATURE FILING OF APPEAL. If a notice of appeal is filed after announcement of a decision but before entry of the judgment or order, such notice shall be considered as filed immediately after the time the judgment or order becomes final for the purpose of appeal.

(b) Appeals in criminal cases.

(1) TIME FOR FILING. In a criminal case, the notice of appeal shall be filed within 30 days after entry of the judgment or order appealed from. However, if the notice of appeal is mailed, the notice of appeal shall be deemed timely filed if the mailing is postmarked within the time fixed for filing and is received by the clerk no later than 5 days after the postmarked date. For the purposes of calculating other deadlines in these Rules, the date of filing under this Rule shall be the date the document is received by the clerk.

A motion for leave to file an interlocutory appeal from an order of the circuit court must be filed within 30 days of the court's entry of the order. If such a motion is filed and granted, then the notice of appeal shall be filed within 30 days after entry of the circuit court's order granting permission for leave to file an interlocutory appeal.

Rule 4.1. CROSS-APPEALS.

(b) Manner and time of filing.

(1) A notice of cross-appeal shall be filed within 14 days after the notice of appeal is served on the cross-appellant, or within the time prescribed for filing the notice of appeal, whichever is later. Unless filed electronically, as required by Rule 25 of these rules and Rules 2.2 and 4.1 of the Hawai'i Electronic Filing and Service Rules, the notice of cross-appeal shall be submitted to the clerk of court. If a notice of cross-appeal is mailed, the notice of cross-appeal shall be deemed timely filed if the mailing is postmarked within the time fixed for filing and is received by the clerk no later than 5 days after the postmarked date. For the purposes of calculating other deadlines in these Rules, the date of filing under this Rule shall be the date the document is received by the clerk. Furthermore,~~if~~ if a notice of cross-appeal is mistakenly submitted to the appellate clerk, the appellate clerk shall note on it the date of receipt and shall electronically file the notice of cross-appeal. The date of the receipt by the appellate clerk shall be deemed to be the date the notice of cross-appeal was filed with the clerk of the court. A notice of cross-appeal filed through JEFS or JIMS is deemed filed with the clerk of the court appealed from.

Rule 40.1. APPLICATION FOR WRIT OF CERTIORARI IN THE SUPREME COURT.

(a) Application; when filed; extension of time.

(1) APPLICATION; TIME TO FILE. A party may seek review of the intermediate court of appeals' decision by filing an application for a writ of certiorari in the supreme court. The application shall be filed within 30 days after the filing of the intermediate court of appeals' judgment on appeal or dismissal order, unless the time for filing the application is extended in accordance with this Rule. However, if the application for a writ of certiorari is mailed, the application for a writ of certiorari shall be deemed timely filed if the mailing is postmarked within the time fixed for filing and is received by the clerk no later than 5 days after the postmarked date. For the purposes of calculating other deadlines in these Rules, the date of filing under this Rule shall be the date the document is received by the clerk.

DATED: Honolulu, Hawai'i, July 3, 2019.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

