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Intermediate Court of Appeals
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NO. CAAP-19-0000031

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

STATE OF HAWAII, Plaintiff-Appellee, v.
MARIO D. COOPER, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE FIFTH CIRCUIT
(CASE NO. 5DTI-18-103756)

ORDER DENYING MOTION FOR RECONSIDERATION

(By: Fujise, Presiding Judge, Leonard and Hiraoka, JJ.)

Upon consideration of the Motion for Reconsideration, filed on September 26, 2019, by Defendant-Appellant Mario D. Cooper (Appellant), citing Rule 21 (b) of the Hawaii Civil Traffic Rules (HCTR) and Si-Nor v. Director, Dept. of Lab. and Indus. Rel., 120 Hawai'i 135, 202 P.3d 596 (App. 2009), for the proposition the mailing date is the effective filing date, Appellant contends his mailing of the Notice of Appeal on January 2, 2019, constituted the filing date, five days prior to the filing deadline on January 7, 2019, pursuant to Rule 4(a) of the Hawaii Rules of Appellate Procedure (HRAP).

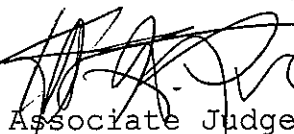
HRAP Rule 4 governs the deadline to file a Notice of Appeal, not HCTR Rule 21. Si-Nor involved this court's review of an agency's interpretation of its own administrative rules regarding the timely filing of a Notice of Contest. Si-Nor, 120 Hawai'i at 146-47, 202 P.3d at 607-08. Si-Nor does not involve an interpretation of HRAP Rule 4, thus, it is inapplicable.

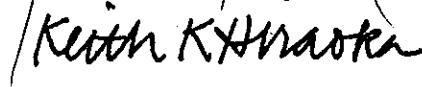
HRAP Rule 25(a) states "Physical documents may be submitted by conventional mail addressed to the appellate clerk, but filing shall not be considered timely unless the documents are received by the clerk within the time fixed for filing[.]" There is nothing in the record on appeal to suggest the Notice of Appeal was received prior to January 8, 2019, when it was filed.

Therefore, IT IS HEREBY ORDERED that the Motion for Reconsideration is denied.

DATED: Honolulu, Hawai'i, September 30, 2019.


Presiding Judge


Associate Judge


Associate Judge