

**Electronically Filed
Intermediate Court of Appeals
CAAP-19-0000514
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NO. CAAP-19-0000514

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

SYLVIA CABRAL, Plaintiff-Appellant, v.
LAURIE HAYES, Defendant-Appellee

APPEAL FROM THE DISTRICT COURT OF THE SECOND CIRCUIT
WAILUKU DIVISION
(2RC181001459)

ORDER DISMISSING APPEAL FOR LACK OF APPELLATE JURISDICTION
(By: Chan, Presiding Judge, Hiraoka and Wadsworth, JJ.)

Upon review of this appeal by self-represented Plaintiff-Appellant Sylvia Cabral (**Cabral**) from two post-judgment orders entered in District Court Civil No. 18-1-01459:

- a March 28, 2019 order denying Cabral's post-judgment motion for a default judgment awarding attorneys' fees and costs, and
- a March 28, 2019 order denying Cabral's post-judgment motion to seal court records and consolidate eight District Court cases,

it appears that we lack appellate jurisdiction because Cabral's notice of appeal is untimely under Rule 4(a)(1) of the Hawai'i Rules of Appellate Procedure (**HRAP**).

The District Court entered a final judgment in favor of Cabral and against Defendant-Appellee Laurie Hayes on January 18, 2019. All subsequent orders were post-judgment orders. A "post-judgment order is an appealable final order under HRS § 641-1(a) if the order ends the proceedings, leaving nothing further to be

accomplished." Ditto v. McCurdy, 103 Hawai'i 153, 157, 80 P.3d 974, 978 (2003) (citation omitted).

One March 28, 2019 post-judgment order finally determined, and thus ended, the post-judgment proceeding on Cabral's motion for a default judgment awarding attorneys' fees and costs. The other March 28, 2019 post-judgment order finally determined, and thus ended, the post-judgment proceeding on Cabral's motion to seal court records and consolidate eight District Court cases. Therefore, both of the March 28, 2019 orders were independently appealable final post-judgment orders pursuant to HRS § 641-1(a).

Cabral did not file her July 16, 2019 notice of appeal in case number CAAP-19-0000514 within thirty days after entry of the March 28, 2019 post-judgment orders, as required under HRAP Rule 4(a)(1). 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.").

Therefore, IT IS HEREBY ORDERED that case number CAAP-19-0000514 is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, April 6, 2020.

/s/ Derrick H.M. Chan
Presiding Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Clyde J. Wadsworth
Associate Judge