

**Electronically Filed
Intermediate Court of Appeals
CAAP-19-0000520
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NO. CAAP-19-0000520

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
(2SS181000210)

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

Upon review of this appeal by self-represented Petitioner-Appellant Sylvia Cabral (**Cabral**) from the March 29, 2019 order in District Court Civil No. 18-1-00210 denying Cabral's motion to seal court records and consolidate eight District Court cases, it appears that we lack appellate jurisdiction over Cabral's appeal 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's August 13, 2018 order dissolving a prior August 3, 2018 injunction against harassment pursuant to HRS § 604-10.5 (2016) against Respondent-Appellee Laurie Hayes, was an appealable final order pursuant to Hawaii Revised Statutes (HRS) § 641-1(a) (2016) and the holding in Casumpang v. ILWU, Local 142, 91 Hawai'i 425, 426-27, 984 P.2d 1251, 1252-53 (1999). All subsequent orders were post-judgment orders, and any "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).

The March 29, 2019 order finally determined, and, thus, ended the proceeding on Cabral's post-judgment motion to seal court records and consolidate eight District Court cases by denying that post-judgment motion in its entirety, leaving nothing further for the District Court to accomplish in that particular post-judgment proceeding. Therefore, the March 29, 2019 post-judgment order was an independently appealable final order pursuant to HRS § 641-1(a).

However, Cabral did not file her July 15, 2019 notice of appeal in appeal number CAAP-19-0000520 within thirty days after entry of the March 29, 2019 post-judgment order, as required by 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 appeal number CAAP-19-0000520 is dismissed for lack of appellate jurisdiction.

IT IS FURTHER HEREBY ORDERED that all pending motions in appeal number CAAP-19-0000520 are dismissed as moot.

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