

NO. CAAP-20-0000731

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

SEAN P. DEPAEPE, Petitioner-Appellant, v.
STATE OF HAWAII, Respondent-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CASE NO. 2PR191000006(4) (CASE NOS. 2FC141000147(4)
and 2PC121000498(4))

ORDER GRANTING MOTION TO DISMISS APPEAL
FOR LACK OF APPELLATE JURISDICTION

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

Upon consideration of the February 4, 2021 Motion to Dismiss Appeal for Lack of Appellate Jurisdiction (**Motion**), by Respondent-Appellee State of Hawaii, the papers in support, and the record, it appears we lack appellate jurisdiction over self-represented Petitioner-Appellee Sean P. DePaepe's (**DePaepe**) appeal from the Circuit Court of the Second Circuit's (**circuit court**) August 14, 2020 Findings of Fact, Conclusions of Law, and Order Denying Petition for Post-Conviction Relief (**Order Denying Petition**) because DePaepe did not timely file the notice of appeal.

DePaepe failed to file his November 5, 2020 notice of appeal within thirty days after the circuit court issued the Order Denying Petition, as required by Hawaii Rules of Appellate Procedure (**HRAP**) Rule 4(b)(1), and it appears he did not move for an extension of time. See HRAP Rule 4(b)(5). Further, the exceptions to the requirement that a notice of appeal be timely

filed, under State v. Irvine, 88 Hawai'i 404, 407, 967 P.2d 236, 239 (1998), do not apply.

Compliance with the requirements of the timely filing of a notice of appeal is jurisdictional, and we must dismiss an appeal if we lack jurisdiction. Grattafiori v. State, 79 Hawai'i 10, 13, 897 P.2d 937, 940 (1995). See 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."). Accordingly,

IT IS HEREBY ORDERED that the Motion is granted and this appeal is dismissed for lack of appellate jurisdiction.

DATED: Honolulu, Hawai'i, February 19, 2021.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Karen T. Nakasone
Associate Judge