

NO. CAAP-22-0000160

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

U.S. BANK NATIONAL ASSOCIATION,
AS TRUSTEE SUCCESSOR IN INTEREST TO BANK OF AMERICA,
NATIONAL ASSOCIATION AS TRUSTEE AS SUCCESSOR BY MERGER TO
LASALLE BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR
CERTIFICATEHOLDERS OF BEAR STERNS ASSET BACKED SECURITIES 1 LLC,
ASSET-BACKED CERTIFICATES, SERIES 2007-HE7, Plaintiff-Appellee,
v. JAMES C. ACOB, Defendant-Appellant, and
JOHN AND MARY DOES 1-20; DOE PARTNERSHIPS,
CORPORATIONS OR OTHER ENTITIES 1-20, Defendants.

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CIVIL NO. 1CC151000671)

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

Upon review of the record, it appears we lack appellate jurisdiction over self-represented Defendant-Appellant James C. Acob's (**Acob**) appeal from the underlying case, Civil No. 1CC151000671, because the appeal is untimely.

On February 7, 2022, the Circuit Court of the First Circuit (**circuit court**) entered a final, appealable judgment (**Judgment**). See Hawaii Revised Statutes (**HRS**) §§ 641-1(c) (2016) & 667-51(a)(1) (2016); Hawai'i Rules of Civil Procedure (**HRCP**) Rule 58; Jenkins v. Cades Schutte Fleming & Wright, 76 Hawai'i 115, 119, 869 P.2d 1334, 1338 (1994). Acob's December 22, 2021 HRCP Rule 59(e) "Motion for Reconsideration or New Trial" (**Motion to Reconsider**) extended the deadline to file the notice of appeal from the Judgment until 30 days after issuance of an order disposing of the Motion to Reconsider. See

Hawaii Rules of Appellate Procedure (**HRAP**) Rule 4(a)(3); HRCF Rule 59(e); Saranillio v. Silva, 78 Hawaii 1, 7, 889 P.2d 685, 691 (1995); Buscher v. Boning, 114 Hawaii 202, 221, 159 P.3d 814, 833 (2007). The order denying the Motion to Reconsider was entered on February 14, 2022. The 30-day deadline to file a notice of appeal from the Judgment was March 16, 2022. Acob's notice of appeal was not filed until March 18, 2022, after the deadline expired.

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 [the HRAP]."); 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 the appeal is dismissed for lack of jurisdiction.

DATED: Honolulu, Hawaii, June 9, 2022.

/s/ Keith K. Hiraoka
Presiding Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Karen T. Nakasone
Associate Judge