

NO. CAAP-23-0000476

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

ROSEL LYN ROMANCIA; CHANTELE LYNN KANANI FERNANDEZ;
SABRINA CELETE ROBERSON, aka SABRINA ROBERSON-ARGEND,
Plaintiffs-Appellees, v.
MICHAEL YELLEN, Defendant-Appellant

APPEAL FROM THE DISTRICT COURT OF THE THIRD CIRCUIT
PUNA DIVISION
(CIVIL NO. 3DRC-22-0000507)

ORDER DISMISSING APPEAL FOR LACK OF JURISDICTION

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

Upon review of the record, it appears that self-represented Defendant-Appellant Michael Yellen (**Yellen**) appeals from the District Court of the Third Circuit, Puna Division's May 10, 2023 Judgment for Possession (**Judgment**) and July 25, 2023 minute order denying Yellen's September 23, 2022 Defendant's Motion to Dismiss the Instant Case (**Oral Order**).

Though the Judgment is appealable pursuant to the Forgay¹ doctrine, Ciesla v. Reddish, 78 Hawai'i 18, 20, 889 P.2d 702, 704 (1995), Yellen filed the August 11, 2023 notice of appeal more than 30 days after its entry, which is outside of the deadline set forth in Hawai'i Rules of Appellate Procedure Rule 4(a)(1). The record does not indicate that Yellen timely requested or received an extension of time to appeal, or that the deadline was otherwise tolled or extended. Compliance with the

¹ Forgay v. Conrad, 47 U.S. 201 (1848). No final judgment, order, or decree has been entered in the underlying case. Hawaii Revised Statutes (**HRS**) § 641-1(a) (2016).

requirement of timely filing a notice of appeal is jurisdictional. Grattafiori v. State, 79 Hawai'i 10, 13, 897 P.2d 937, 940 (1995).

A minute order is not an appealable order. Abrams v. Cades, Schutte, Fleming & Wright, 88 Hawai'i 319, 321 n.3, 966 P.2d 631, 633 n.3 (1998). Even if the Oral Order was reduced to a written order, it would not be appealable under HRS § 641-1(a), and no exception to finality applies. See Greer v. Baker, 137 Hawai'i 249, 253, 369 P.3d 832, 836 (2016) (setting forth the requirements for appealability under the collateral-order doctrine and the Forgay doctrine).

When the court "perceive[s] a jurisdictional defect in an appeal, [it] must, *sua sponte*, dismiss that appeal." Bacon v. Karlin, 68 Haw. 648, 650, 727 P.2d 1127, 1129 (1986).

Therefore, IT IS HEREBY ORDERED that the appeal is dismissed for lack of jurisdiction.

IT IS FURTHER ORDERED that all pending motions are dismissed.

DATED: Honolulu, Hawai'i, September 11, 2023.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Karen T. Nakasone
Associate Judge

/s/ Sonja M.P. McCullen
Associate Judge