

**Electronically Filed
Intermediate Court of Appeals
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NO. CAAP-23-0000582

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
NICHOLAS L. ABEL, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIFTH CIRCUIT
(CASE NOS. 5CPC-19-0000194; 5CPC-19-0000245; and
5FFC-21-0000052)

ORDER DISMISSING APPEAL FOR LACK OF JURISDICTION

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

Upon review of the record, it appears that Defendant-Appellant Nicholas Abel (**Abel**) filed a self-represented appeal¹ from the Circuit Court of the Fifth Circuit's: (1) January 20, 2021 Judgment of Conviction and Probation Sentence entered in 5CPC-19-0000194, (2) January 20, 2021 Judgment of Conviction and Probation Sentence entered in 5CPC-19-0000245, and (3) February 22, 2022 Judgment of Conviction and Sentence entered in 5FFC-21-0000052 (collectively, **Judgments**).²

We conclude that the court lacks jurisdiction over the appeal because Abel filed his September 25, 2023 notice of

¹ Though Abel filed the appeal self-represented, Abel's court-appointed counsel, Matthew Mannisto, remains his counsel of record.

² Abel's February 7, 2024 Jurisdictional Statement indicates that he appeals from the underlying Judgments, and not from the Circuit Court's orders of resentencing entered September 13, 2023, in 5CPC-19-0000194 and 5CPC-19-0000245.

appeal³ more than 30 days after entry of each of the Judgments appealed from, which is outside of the deadline set forth in HRAP Rule 4(b)(1), and compliance with the requirement of timely filing a notice of appeal is jurisdictional. Grattafiori v. State, 79 Hawai'i 10, 13, 897 P.2d 937, 940 (1995); see also 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 appellate jurisdiction.

IT IS FURTHER ORDERED that all pending motions are dismissed.

DATED: Honolulu, Hawai'i, February 20, 2024.

/s/ Katherine G. Leonard
Acting Chief Judge

/s/ Karen T. Nakasone
Associate Judge

/s/ Sonja M.P. McCullen
Associate Judge

³ "For the purposes of calculating other deadlines in these Rules, the date of filing under this Rule shall be the date the document is received by the clerk." Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 4(b)(1).