

**Electronically Filed
Intermediate Court of Appeals
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NO. CAAP-23-0000680

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

STATE OF HAWAI'I, Plaintiff-Appellant, v.
UTTARA DASI LANGE, Defendant-Appellee

APPEAL FROM THE CIRCUIT COURT OF THE SECOND CIRCUIT
(CASE NO. 2CPC-23-0000386)

ORDER GRANTING MOTION TO DISMISS APPEAL

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

Upon consideration of Defendant-Appellee Uttara Dasi Lange's (**Lange**) January 24, 2024 Motion to Dismiss Appeal, the papers in support and in opposition, and the record, it appears that:

(1) On October 5, 2023, the Circuit Court of the Second Circuit (**Circuit Court**) entered a "Proposed Findings of Fact, Conclusions of Law for [Lange]'s Motion to Dismiss" (**Dismissal Order**) dismissing the charges in the underlying case;

(2) On October 20, 2023, the Circuit Court entered an "Amended Findings of Fact, Conclusions of Law for [Lange]'s Motion to Dismiss" (**Amended Dismissal Order**), with the only change being the inclusion of case number references in the findings of fact;

(3) On November 16, 2023, Plaintiff-Appellant State of Hawai'i (**State**) filed a notice of appeal from the Amended Dismissal Order, pursuant to Hawaii Revised Statutes § 641-13(1) (2016);

(4) Lange seeks dismissal of the appeal for lack of jurisdiction, arguing that the time to appeal ran from entry of

the Dismissal Order, and therefore, the notice of appeal was not timely filed in accordance with Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 4(b) (1);

(5) Because the order was not "amended in a material and substantial respect," the 30-day deadline to appeal under HRAP Rule 4(b) (1) ran from entry of the Dismissal Order, not the Amended Dismissal Order, see State v. Mainaapu, 117 Hawai'i 235, 246 n.6, 178 P.3d 1, 12 n.6 (2008) (citation omitted); Weisenberg v. University of Hawai'i, 138 Hawai'i 210, 216, 378 P.3d 926, 932 (2016); thus, the State's appeal is untimely; and

(6) 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).

Therefore, IT IS HEREBY ORDERED that the motion is granted, and the appeal is dismissed.

DATED: Honolulu, Hawai'i, February 7, 2024.

/s/ Katherine G. Leonard
Acting Chief Judge

/s/ Karen T. Nakasone
Associate Judge

/s/ Sonja M.P. McCullen
Associate Judge