

**Electronically Filed
Intermediate Court of Appeals
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NO. CAAP-25-0000055

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

STATE OF HAWAI'I, Plaintiff-Appellee, v.
MATTHEW JAMES COOKE, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(CASE NO. 1CPC-22-0000922)

ORDER

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

Upon consideration of Defendant-Appellant Matthew James **Cooke**'s Response to Court's Order to Show Cause, filed August 28, 2025, the papers in support, and the record, we conclude the court lacks jurisdiction. Cooke appeals from the January 30, 2023 Judgment of Conviction and Probation Sentence. His Notice of Appeal, filed on January 30, 2025, was not filed within thirty days after entry of the Judgment of Conviction and Probation Sentence, as required by Hawai'i Rules of Appellate Procedure Rule 4(b)(1). "[C]ompliance with the requirement of the timely filing of a notice of appeal is jurisdictional." State v. Brandimart, 68 Haw. 495, 496, 720 P.2d. 1009, 1010 (1986). Trial counsel's alleged ineffectiveness in failing to timely appeal is not "clear and plain from the record[.]" Cf. State v. Cardenas, 150 Hawai'i 307, 318-19, 500 P.3d 492, 503-04 (App. 2021) (stating that appellate court may consider a late appeal on the

merits "where counsel's ineffectiveness in filing an untimely appeal is clear and plain from the record").

Therefore, IT IS HEREBY ORDERED that the appeal is dismissed without prejudice to Cooke seeking relief by petition under Hawai'i Rules of Penal Procedure Rule 40.

DATED: Honolulu, Hawai'i, September 26, 2025.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Clyde J. Wadsworth
Associate Judge