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NO. CAAP-25-0000407

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAIʻI

HYE JA CHOI, Plaintiff-Appellant, v.
STATE OF HAWAII UNEMPLOYMENT INSURANCE, Defendant-Appellee.

APPEAL FROM THE DISTRICT COURT OF THE FIRST CIRCUIT
HONOLULU DIVISION
(CASE NO. 1DRC-25-0000079)

SUMMARY DISPOSITION ORDER
(By: Leonard, Presiding Judge, and Wadsworth and Guidry, JJ.)

Self-represented Plaintiff-Appellant Hye Ja Choi (**Choi**) appeals from the *Order Dismissing [Choi's] Complaint Filed January 3, 2025, with Prejudice* (**Dismissal Order**) entered on April 9, 2025, by the District Court of the First Circuit, Honolulu Division (**District Court**).[1/] The District Court concluded that it lacked subject matter jurisdiction over Choi's claim for unemployment benefits allegedly owed to her deceased husband, and Choi failed to properly serve Defendant-Appellee State of Hawaiʻi Unemployment Insurance (**State**) with the complaint.

On appeal, Choi appears to contend that the District Court erred by: (1) determining that service of process was improper; (2) concluding that the court lacked jurisdiction over her claim; (3) violating District Court Rules of Civil Procedure (**DCRCP**) 56(c), (d), (f), and (g), and depriving Choi of her right to sue "due to [the court's] personal feelings and bias against

[1/] The Honorable Timothy E. Ho presided.

foreigners"; and (4) denying Choi's motion for reconsideration, "acting on a prejudicial basis and without review[.]"[2/]

The State contends that Choi filed an untimely notice of appeal, and this court therefore lacks jurisdiction. Otherwise, the State is not contesting service of process, but argues that the District Court properly concluded that it lacked subject matter jurisdiction over Choi's claim.

After reviewing the record on appeal and the relevant legal authorities, and giving due consideration to the issues raised and the arguments advanced by the parties, we resolve Choi's contentions as follows, and affirm.

(1) Appellate Jurisdiction. We first address the State's contention that this court lacks jurisdiction over Choi's appeal. The State argues that the notice of appeal was untimely, as it was filed on May 15, 2025, more than 30 days after entry of the April 9, 2025 Dismissal Order, in violation of HRAP Rule 4(a). The State further argues that Choi's May 1, 2025 *Request to Set Aside Entry of [Dismissal Order]* **(Request to Set Aside)**, even if considered a motion for relief under DCRCP 60(b), was not a tolling motion that extended the time for filing the notice of appeal under HRAP Rule 4(a)(3).

We construe the Request to Set Aside as, in part, a motion for relief under DCRCP Rule 60(b). The operative language of DCRCP Rule 60(b) is identical to that of Hawai‘i Rules of Civil Procedure (**HRCP**) Rule 60(b). In Mālama Kakanilua v. Dir. of Dep't of Pub. Works, 157 Hawai‘i 280, 576 P.3d 793 (2025), the supreme court held that "for purposes of serving as a 'tolling motion,' an HRCP Rule 60(b) motion extends the time in which to file a notice of appeal pursuant to HRAP Rule 4(a)(3), if the motion for reconsideration is filed within thirty days of the entry of judgment." Id. at 293-94, 576 P.3d at 806-07.

[2/] Choi's opening brief does not comply with Hawai‘i Rules of Appellate Procedure (**HRAP**) Rule 28(b). In particular, the opening brief does not contain "[a] concise statement of the points of error set forth in separately numbered paragraphs[,]" as required by HRAP Rule 28(b)(4). To promote access to justice, we do not automatically foreclose self-represented litigants from appellate review for not complying with court rules. Erum v. Llego, 147 Hawai‘i 368, 380-81, 465 P.3d 815, 827-28 (2020). We address what we discern to be Choi's arguments.

Here, Choi's Request to Set Aside was filed within 30 days of entry of the Dismissal Order. As a DCRCP Rule 60(b) motion, it was a tolling motion under HRAP Rule 4(a)(3), which extended the time for filing the notice of appeal until 30 days after entry of the May 5, 2025 denial of the Request to Set Aside. The May 15, 2025 notice of appeal was therefore timely under HRAP Rule 4(a)(3), and this court has jurisdiction over Choi's appeal.

(2) The Dismissal Order. Choi appears to contend that the District Court erred in dismissing her complaint where (a) "the deceased . . . was already receiving benefits after being approved for 'unemployment benefit eligibility' . . . so HRS [chapter] 383 did not apply[,]" and (b) the case "was a civil action under [Hawaii Revised Statutes (**HRS**)] § 708-830[ ](Theft) . . . ."

"Our review of a motion to dismiss for lack of subject matter jurisdiction is based on the contents of the complaint, the allegations of which we accept as true and construe in the light most favorable to the plaintiff." Casumpang v. ILWU, Local Casumpang v. ILWU, Local 142, 94 Hawai‘i 330, 337, 13 P.3d 1235, 1242 (2000) (brackets omitted) (quoting Norris v. Hawaiian Airlines, Inc., 74 Haw. 235, 240, 842 P.2d 634, 637 (1992)). "[W]hen considering a motion to dismiss pursuant to Rule 12(b)(1) the trial court is not restricted to the face of the pleadings, but *may* review any evidence, such as affidavits and testimony, to resolve factual disputes concerning the existence of jurisdiction." Id. at 337, 13 P.3d at 1242 (original brackets omitted, emphasis added) (quoting Norris, 74 Haw. at 240, 842 P.2d at 637).

In her complaint, Choi alleged that the State owed money to her for "[d]eceased Michael K. Yoshida's unemployment [b]enefits unpaid (part)." She did not present any evidence in response to the State's motion to dismiss the complaint due in part to lack of jurisdiction.

The Hawai‘i Employment Security Law, HRS chapter 383, governs unemployment benefits. Claims for benefits must be made in accordance with regulations prescribed by the Department of

Labor and Industrial Relations. See HRS § 383-32; Haw. Admin. Rules (**HAR**) § 12-5-81. The claimant may file an appeal from the claim determination to the employment security appeals referee's office. See HRS § 383-38; HAR § 12-5-93. The claimant may then obtain judicial review of the referee's decision "in the manner provided in [HRS] chapter 91, by instituting proceedings in the circuit court of the circuit in which the claimant resides or in which the claimant was last employed." HRS § 383-41 (emphasis added). In sum, the Hawai‘i Employment Security Law mandates exhaustion of administrative remedies before the referee and then channels judicial review exclusively to the circuit court under HRS § 383-41.

Choi cites no authority supporting her contention that the process set forth in HRS chapter 383 does not apply to her claim because "the deceased . . . was already receiving benefits after being approved for 'unemployment benefit eligibility.'" We have found none. And HRS § 708-830, which defines the criminal offense of theft, does not provide a vehicle for suing the State in these circumstances.

Accordingly, the District Court did not err in dismissing the complaint.

(3) Remaining Contentions. Choi contends that the District Court violated DCRCP rules regarding summary judgment motions. However, the District Court dismissed the complaint based on the State's motion to dismiss for improper service and lack of jurisdiction. The case did not involve summary judgment, and the record does not support Choi's assertion that the court granted the State's motion to dismiss "due to [the court's] personal feelings and bias against foreigners."

Choi contends that the District Court erred in denying her Request to Set Aside, which we have construed in part as a motion for relief under DCRCP Rule 60. There was no abuse of discretion in denying the motion, and the record does not support Choi's assertion that the court "act[ed] on a prejudicial basis and without review[.]"

For the reasons discussed above, the April 9, 2025 *Order Dismissing [Choi's] Complaint Filed January 3, 2025, with*

Prejudice is affirmed. The November 13, 2026 motion to retain oral argument is denied.

DATED: Honolulu, Hawai‘i, November 16, 2026.

On the briefs:

Hye Ja Choi,
Self-represented Plaintiff-Appellant.

Jung Yun Ha,
Deputy Attorney General,
for Defendant-Appellee.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Clyde J. Wadsworth
Associate Judge

/s/ Kimberly T. Guidry
Associate Judge