

IN THE HIGH COURT OF AMERICAN SAMOA  
APPELLATE DIVISION

FUALAAU LANCASTER, ) AP No. 05-07  
)  
Petitioner, )  
)  
v. ) OPINION AND ORDER  
)  
BOARD OF HIGHER EDUCATION, )  
FAINUULELEI ALAILIMA-UTU, )  
CHAIRPERSON, AMERICAN SAMOA )  
COMMUNITY COLLEGE, SALU HUNKIN, )  
PRESIDENT, and AMERICAN SAMOA )  
GOVERNMENT. )  
)  
Respondents. )

HIGH COURT OF AMERICAN SAMOA  
Clerk's Office  
FILED TIME: 8:06 AM  
5/17/11 JF  
TERRY S. FIELDING  
CLERK OF COURTS

Before KRUSE, Chief Justice, RICHMOND, Associate Justice, WARD, Associate Justice, LOGOAI, Chief Associate Judge, and MAMEA, Associate Judge.

Counsel: For Petitioner, Marie A. Ala'ilima  
For Respondents, Nicole R. Barnett, Assistant Attorney General; Lawrence F. Wilson

**BACKGROUND**

We first visited this matter in *Lancaster v. Board of Higher Education et al.*, AP No. 06-07, Opinion and Order (App. Div. May 14, 2009). The backdrop to that earlier matter is as follows: On October 18, 2000, Lancaster an employee at the American Samoa Community College, an American Samoa Government (ASG") entity, filed her employment related grievance with the Board of Higher Education ("BHE"). The BHE held a hearing on January 11 and 12, 2001, and found against Lancaster. Lancaster appealed the BHE's decision to the Administrative Law Judge ("ALJ"). In his ruling, issued March 14, 2007, the ALJ dismissed for want of jurisdiction, finding that the High Court, Appellate Division,

was the proper forum to hear Lancaster's appeal. Lancaster next appealed the ALJ's dismissal to the Appellate Division which upheld the ALJ's dismissal ruling. See *Id.* Six years after the BHE's decision, Lancaster on April 30, 2007, filed her petition for judicial review, now before us.

#### DISCUSSION

Under A.S.C.A. § 4.1040(a), "[a] person who has exhausted all administrative remedies available within an agency and who is aggrieved by a final decision in a contested case shall be entitled to judicial review under this section and 4.1041 through 4.1044." Section 4.1041(a) provides that "[p]roceedings for review may be instituted by filing a petition in the appellate division of the High Court of American Samoa within 30 days after the issuance of the decision to be reviewed, or if rehearing or reconsideration is requested, within 30 days after the decision thereon." Lancaster's petition for judicial review of the BHE's 2001 final decision was simply not filed with this Court within the 30 days next following that decision. This Court accordingly lacks jurisdiction at this late stage to review this administrative action.


The petition is, therefore, DISMISSED.


It is so ordered.


Dated: 5/17/11

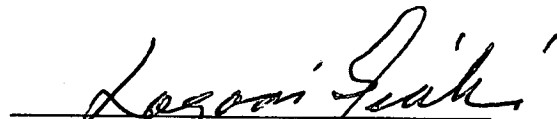
  
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F. MICHAEL KRUSE  
Chief Justice


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In the Office of the Clerk of Courts

5/17/11   
\_\_\_\_\_  
Clerk of Courts

  
LYLE L. RICHMOND  
Associate Justice

  
JOHN L. WARD II  
Associate Justice

  
LOGOAI SIKI P.  
Chief Associate Judge

  
MAMEA SALA, JR.  
Associate Judge