

IN THE SUPREME COURT OF THE STATE OF HAWAII

In the Interest of JOHN DOE Born on May 5, 1998

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-S NO. 98-05425)

SUMMARY DISPOSITION ORDER

(By: Moon, C.J., Levinson, Nakayama,
Ramil, and Acoba, JJ.)

This is an appeal from (1) the minute order, dated December 3, 1999, of the family court of the first circuit (a) revoking an existing service plan, (b) dissolving the parental rights of the appellant (Mother) in her son, John Doe (Child), (c) awarding permanent custody of Child to the appellee Department of Human Services (DHS), and (d) establishing a permanent plan for the adoption of Child, and (2) the family court's findings of fact (FOFs) and conclusions of law (COLs), subsequently filed on April 3, 2000. Child's father is not a party to the present appeal.

On appeal, Mother contests two of the family court's FOFs, specifically, FOF Nos. 70 and 71, which concern Mother's psychiatrist, Matsuoki Kai, M.D. Mother essentially posits that the family court abused its discretion in not giving more weight to the testimony of Dr. Kai adduced during the permanent plan hearing that was conducted on December 1, 1999.

Upon carefully reviewing the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, we hold that, because we will not reassess the trier of fact's

assessment of the credibility and weight of testimony, see, e.g., State v. Jenkins, 93 Hawai'i 87, 101, 997 P.2d 13, 27 (2000)

("[I]t is well-settled that an appellate court will not pass upon issues dependant upon the credibility of witnesses and the weight of the evidence; this is the province of the [trier of fact].")

(Citations omitted and brackets in original.)), we cannot say that the family court abused its discretion. Therefore,

IT IS HEREBY ORDERED that the family court's minute order, entered on December 3, 1999, and its FOFs and COLs, filed on April 3, 2000, from which the appeal is taken are affirmed.

DATED: Honolulu, Hawai'i, January 23, 2001.

On the briefs:

Richard D. Gronna,
for the appellant

Mary Anne Magnier,
for the appellee,
Department of Human
Services