

NO. 24103

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

In the Interest of DOE CHILDREN:

JOHN DOE, Born on November 27, 1994, and
JANE DOE, Born on June 1, 1997, Minors.

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT,
(FC-S No. 97-04859)

SUMMARY DISPOSITION ORDER

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

In the present matter, which arises under the Child Protective Act (CPA), see Hawai'i Revised Statutes (HRS) ch. 587 (1993 & Supp. 2000), Mother appeals from the orders of the first circuit family court, the Honorable Linda K.C. Luke presiding, awarding permanent custody of John and Jane Doe (the children) to the Department of Human Services (DHS) and denying Mother's motion for reconsideration. On appeal, Mother argues that the family court clearly erred in determining that she was not presently willing and able, nor was it reasonably foreseeable that she would become willing and able, to provide the children with a safe family home, even with the assistance of a service plan.

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 affirm the family court's orders.

Mother, in essence, admitted at the permanent plan hearing conducted in the present matter that she was not

presently willing and able to provide a safe family home for the children when she proposed delaying reunification until June 2001. Furthermore, Mother's long history of substance abuse, including her repeated use of methamphetamines during pregnancy, her repeated relapses after sustained periods of sobriety, her failure to consistently comply with numerous court-ordered service plans, the harm suffered by the children as a result of Mother's parenting, and the expert testimony of a social worker that Mother was unlikely to remain clean and sober, constituted substantial evidence that it was not reasonably foreseeable that Mother would be able to provide the children with a safe family home within a reasonable period of time, even with the assistance of a service plan. "The family court possesses wide discretion in making its decisions and those decisions will not be set aside unless there is a manifest abuse of discretion." In re Jane Doe, Born on June 20, 1995, 95 Hawai'i 183, 189-90, 20 P.3d 616, 622-23 (2000). Accordingly, we hold that the family court did not clearly err in its determinations nor abuse its discretion in divesting Mother of her parental rights in the children and awarding permanent custody to the DHS. Therefore,

IT IS HEREBY ORDERED that the family court's orders from which the appeal is taken are affirmed.

DATED: Honolulu, Hawai'i, January 22, 2002.

On the briefs:

Joseph Dubiel, for the
mother-appellant

John Y.U. Choi and
Mary Anne Magnier,
deputies attorney general,
for the appellee,
Department of Human Services