

IN THE SUPREME COURT OF THE STATE OF HAWAII

REMY R. BONILLA, Petitioner-Appellee,

vs.

BENJAMIN P. BONILLA, Respondent-Appellant.

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-DA NO. 01-1-1912)

SUMMARY DISPOSITION ORDER

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

The respondent-appellant Benjamin P. Bonilla appeals from the order of protection of the family court of the first circuit, the Honorable R. Mark Browning presiding, granting the petition for an order of protection, pursuant to Hawai'i Revised Statutes (HRS) § 586-5.5 (Supp. 2001), filed on October 9, 2001, in favor of the petitioner-appellee Remy R. Bonilla [hereinafter, "the petitioner"]. On appeal, Bonilla's sole point of error is that the family court erred in denying his request to allow three family members to attend his October 9, 2001 hearing, thereby violating his right to a public hearing under the United States and Hawai'i Constitutions.

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 judgment of the family court. Inasmuch as Bonilla failed to include the transcript of his October 9, 2001 hearing in the record on appeal, we have no basis upon which to review the family court's order granting the petitioner's petition for an order of protection. See Hawai'i Rules of Appellate Procedure

(HRAP) Rule 10(b)(1)(A) ("When an appellant desires to raise any point on appeal that requires consideration of the oral proceedings before the court . . . appealed from, the appellant shall file with the clerk of the court appealed from, . . . , a request or requests to prepare a reporter's transcript of such parts of the proceedings as the appellant deems necessary"); Bettencourt v. Bettencourt, 80 Hawai'i 225, 230-31, 909 P.2d 553, 558-59 (1995); Orso v. City and County of Honolulu, 55 Haw. 37, 38, 514 P.2d 859, 860 (1973); Tradewinds Hotel, Inc. v. Cochran, 8 Haw. App. 256, 266, 799 P.2d 60, 66 (1990).

Moreover, we note that Bonilla did not challenge the family court's findings of fact (FOFs) Nos. 7, 8, and 9 in his opening brief. See HRAP Rules 28(b)(4)(C) ("[T]he appellant shall file an opening brief, containing . . . [a] concise statement of the points of error set forth in separately numbered paragraphs. . . . Where applicable, each point shall also include the following: . . . (C) when the point involves a finding . . . of the court . . . , a quotation of the finding . . . urged as error[.] . . . Points not presented in accordance with this section will be disregarded[.]"). Therefore,

IT IS HEREBY ORDERED that the judgment from which the appeal is taken is affirmed.

DATED: Honolulu, Hawai'i, September 18, 2002.

On the brief:

Earle A. Partington,
for the respondent-appellant,
Benjamin P. Bonilla