

NO. 23247

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

JEFFREY A. HOFFMAN, Plaintiff-Appellee, v. PAMELA J.  
HOFFMAN, Defendant-Appellant, and JOHN J. and JODI  
MEYER, Intervenors-Appellees, and JANICE WOLF, Custody  
Guardian Ad Litem-Appellee

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT  
(FC-D No. 99-1001)

SUMMARY DISPOSITION ORDER

(By: Watanabe, Acting C.J., Lim, and Foley, JJ.)

In this appeal stemming from a divorce action commenced by Plaintiff-Appellee Jeffrey A. Hoffman (Father) against Defendant-Appellant Pamela J. Hoffman (Mother), Mother contends that the Family Court of the First Circuit (the family court) committed numerous errors in awarding physical and legal custody of Father and Mother's daughters, Jane I and Jane II (collectively, "the children"), to John J. Meyer and Jodi Meyer, the paternal uncle and aunt of the children (collectively, "Intervenors").

We agree with Mother that the family court erred in concluding that her statutory preference to be awarded custody of the children had been extinguished by virtue of an order awarding interim custody of the children to their maternal or paternal grandparents and a subsequent order awarding temporary custody of

the children to Intervenors. However, applying the standard of review set forth by the supreme court in In re Jane Doe, Born on June 20, 1995, 95 Hawai'i 183, 190, 20 P.3d 616, 623 (2001), we cannot conclude that the family court clearly erred in determining that Mother was "unfit" to act as a custodial parent and that it was in the best interest of the children to have their physical and legal custody awarded to Intervenors.

Accordingly, we affirm:

(1) the "Stipulation and Order Following Hearing on Mutual Motions for Pre-Decree Relief[,]" entered by District Family Judge R. Mark Browning on May 3, 1999, that, in part, awarded Father and Mother "temporary joint legal and joint physical custody of" the children, provided that the children shall continue to reside with Mother until they had completed their current school year, and allowed the children to "visit their grandparents on the mainland this summer (June-July, 1999)";

(2) the "Ex Parte Order Awarding Interim Custody and Temporary Restraining [sic] Order[,]" entered by District Family Judge Diana L. Warrington on July 29, 1999, which awarded "*interim physical custody* of the children" to the paternal grandparents, "pending the hearing now scheduled in the [family court] for August 13, 1999, at 10:30 A.M., to determine temporary

custody of said children, or until further order of the [family court]" (italicized emphasis in original);

(3) the "Order Re Mutual Motions for Pre-Decree Relief Filed 4/8/99 + 4/20/99[,]" entered by per diem District Family Judge Christine E. Kuriyama (Judge Kuriyama) on July 21, 1999, that ordered, in part, that "the children shall remain with maternal &/or paternal grandparents per the [custody guardian ad litem-appellee's] recommendations until further order of the court";

(4) the "Order for Temporary Custody[,]" entered by per diem District Family Judge Gale L. F. Ching on September 7, 1999, which ordered that the paternal grandparents shall "continue to have interim temporary custody of the children until further order of the [family court]";

(5) the "Order Granting Motion for Modification of Custody Order and Re [Mother's] Motion to Continue Hearing[,]" entered by Judge Kuriyama on September 22, 1999, that granted "temporary physical and legal custody" of the children to Intervenors; and

(6) that part of the "Decree Granting Divorce and Awarding Child Custody[,]" entered by per diem District Family Judge Lilliam Ramirez-Uy on February 10, 2000, which

awarded permanent physical and legal custody of the children to  
Intervenors.

DATED: Honolulu, Hawai'i, October 12, 2001.

On the briefs:

Richard Lee, Jessi Hall, and  
Paul D. Hicks (the law office  
of Richard Lee) and Brian K.  
Yomono (of counsel) for  
defendant-appellant.

Judith A. Schevtchuk for  
plaintiff-appellee (no  
brief submitted).

Sara R. Harvey and Timothy  
Luria (Hurd & Luria) for  
intervenors-appellees.

Janice Wolf, custody  
guardian ad litem-appellee.