

NOT FOR PUBLICATION

NO. 25192

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

BRIDGET HOWARD, Plaintiff-Appellee, v.
TATSUO R. HOWARD, Defendant-Appellant

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(FC-DOMESTIC ABUSE NO. 02-1-0385)

SUMMARY DISPOSITION ORDER

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

Respondent-Appellant Tatsuo R. Howard (Respondent) appeals the July 1, 2002 order of the family court of the first circuit, the Honorable R. Mark Browning, judge presiding, that denied Respondent's June 18, 2002 motion (the Motion) to stay all proceedings and to terminate the February 27, 2002 temporary restraining order (TRO) entered by the family court.

Upon a painstaking review of the record and the opening brief submitted by Respondent,¹ and giving sedulous consideration to the arguments apparently advanced and the issues apparently raised by Respondent, we resolve Respondent's points of error on appeal as follows:

1. Respondent presents his first primary point of error on appeal as follows (verbatim and with the original type-

¹ Petitioner-Appellee Bridget Howard did not file an answering brief.

setting, but with citations omitted):

1. **The Failure of the Court to Enter the Original "TRO ORDER Dated 27 February 2002" on its Alleged Finding of Facts dated August 30, 2002 and Signed by R. Mark Browning, is Self-Evidence** manifestation not only by words but also by other conduct by one person (The Court) to another (The Respondant) that, under the circumstances, amounts to an assertion not in accordance with the **facts**.
 - a. An untrue statement of fact.
 - b. An incorrect or false representation.

which, has been accepted, by the Court leads the mind to an apprehension of a condition other and different from that which exists, an is legal fraud consists of material representation of presently existing and past fact, made with knowledge of its falsity and with intention that other party relies thereon, resulting in reliance by that party to his detriment.

Also, Colloquially it was, an is understood to mean a statement made to deceive or mislead.

Opening Brief at 5 (counting each page of the unpaginated opening brief including the cover page). We do not discern prejudicial error here. The February 27, 2002 TRO expired by its own terms on May 28, 2002 and/or was superseded by the following orders for protection. Contrary to Respondent's assertion, the family court did in fact note -- although not by date -- the February 27, 2002 TRO, in paragraph 4 of the August 30, 2002 findings of fact and conclusions of law supporting the family court's denial of the Motion.

2. Respondent's other primary point of error on appeal is as follows (verbatim and with the original type-setting, but with citations omitted):

2. **The Alleged Finding of Facts dated August 30, 2002 and Signed by R. Mark Browning, are legal fraud consists of material representation of presently existing and past fact, made with knowledge of its falsity and with intention that**

NOT FOR PUBLICATION

other party relies thereon, resulting in reliance by that party to his detriment.

Opening Brief at 6. This primary point of error is nowhere comprehensibly argued in Respondent's opening brief, and is therefore waived. Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b)(7) (2002); Ala Moana Boat Owners' Ass'n v. State, 50 Haw. 156, 158, 434 P.2d 516, 518 (1967).

3. In one of the subsidiary sections of his opening brief, Respondent asserts the family court lacked jurisdiction because (verbatim):

- (a) There was no petition for the TRO on file as required as pursuant to HRSA 586-4(a) on 27 February 2002.
- (b) Because there was no petition for the TRO on file 27 February 2002 the court lacked subject matter Jurisdiction.
- (c) Because there was no TRO petition on file 27 February 2002 the court lacked jurisdiction over the person.

Opening Brief at 17-18. On the contrary, the TRO, although dated February 27, 2002, was included in an *ex parte* petition for a TRO filed on February 28, 2002.

4. In another subsidiary section of his opening brief, Respondent complains (verbatim, but with citation omitted):

- 3. During the 22 May 2002 Hearing, and during the agreement discussion between the Petitioners, Appellant, and the Judge it was agreed:
 - (a) That no finding of abuse is herein made: and nothing else concerning domestic abuse was agreed upon to be included in the TRO: (Misrepresentation of matter of fact)
 - (b) The judge made an alleged finding that there would be no finding of abuse made, however it is a fact that the "no finding of abuse is herein made" block was not marked by the Judge on 22 May 2002.

NOT FOR PUBLICATION

Opening Brief at 18. On this point, we observe that the superseding May 28, 2002 order for protection ultimately entered in this case and apparently still in effect provides that, "The Defendant has agreed to a restraining order, [/] but denies the Plaintiff's allegations of domestic abuse, and [X] no finding of abuse is herein made." (Handwritten entries in check-off boxes reproduced as they appear.)

5. The remainder of Respondent's opening brief is not cognizable on appeal, because the purported points we have attempted to discern therein either lack any argument, indeed, lack any text at all, HRAP Rule 28(b)(7); Ala Moana Boat Owners' Ass'n, 50 Haw. at 158, 434 P.2d at 518, or consist of wholly conclusory statements, id., allegations unsupported by or misapprehended in the record, or pure *non sequiturs*.

Therefore,

IT IS HEREBY ORDERED that July 1, 2002 order of the family court is affirmed.

DATED: Honolulu, Hawai'i, April 20, 2004.

On the brief:

Tatsuo R. Howard, *pro se*
defendant-appellant.

Chief Judge

Associate Judge

Associate Judge