

NOT FOR PUBLICATION

NO. 26106

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

IN THE INTEREST OF JOHN DOE, BORN ON JANUARY 9, 1993, MINOR

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-S NO. 94-03394)

SUMMARY DISPOSITION ORDER

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

Father appeals the July 7, 2003 order of the family court of the first circuit¹ that awarded permanent custody of his son, born on January 9, 1993, to the Director of Human Services. Father also purports to appeal the September 16, 2003 order of the family court that denied his July 30, 2003 motion for reconsideration.²

After a meticulous review of the record and the briefs submitted by the parties, and giving careful consideration to the arguments advanced and the issues raised by the parties, we conclude that Father's primary point of error on appeal -- that the family court erred in terminating his parental rights where

¹ The Honorable Kenneth E. Enright, judge presiding.

² Father does not specify or argue error with particular respect to the family court of the first circuit's September 16, 2003 order that denied his July 30, 2003 motion for reconsideration. Hence, we will not review and thus affirm the family court's September 16, 2003 order. See Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b)(4) (2004); Wright v. Chatman, 2 Haw. App. 74, 76-77, 625 P.2d 1060, 1062 (1981); HRAP Rule 28(b)(7) (2004); Weinberg v. Mauch, 78 Hawai'i 40, 49, 890 P.2d 277, 286 (1995); In re Wai'ola O Moloka'i, Inc., 103 Hawai'i 401, 438 n.33, 83 P.3d 664, 701 n.33 (2004).

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the goal of the April 23, 2003 permanent plan was a guardianship -- is without merit. Compare Hawaii Revised Statutes (HRS) § 587-73(b)(2) (Supp. 2003) (if the family court determines that the criteria specified in HRS § 587-73(a) (Supp. 2003) have been "established by clear and convincing evidence, the court shall order" that "permanent custody be awarded to an appropriate authorized agency" (emphasis supplied)); HRS § 587-2 (1993) (an award of permanent custody "divests from each legal custodian and family member . . . and vests in a permanent custodian, each of the parental and custodial duties and rights of a legal custodian and family member"); and HRS § 587-1 (Supp. 2003) (where the family court "has determined, by clear and convincing evidence, that the child cannot be returned to a safe family home, the child will be permanently placed in a timely manner" (emphasis supplied)), with In re Guardianship of Jane Doe, 93 Hawai'i 374, 383, 4 P.3d 508, 517 (App. 2000) ("a guardian may be appointed for a minor even where the parental rights of the minor's parents have not been terminated"); In re Guardianship of John Doe, 106 Hawai'i 75, 78, 101 P.3d 684, 687 (App. 2004) (a guardianship of the person of a minor "nevertheless remains subject to residual parental rights and responsibilities" (citation and internal quotation marks omitted)); and id. ("a guardian of the person of a minor always remains subject to removal, as such" (citation omitted)). We further conclude that the findings of fact (51, 52 and 64) that

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Father attacks on appeal are not clearly erroneous. In re Doe, 95 Hawai'i 183, 190, 20 P.3d 616, 623 (2001). Hence, the family court did not abuse its discretion in its disposition of this case. Id. at 189, 20 P.3d at 622.

Therefore,

IT IS HEREBY ORDERED that the July 7, 2003 and September 16, 2003 orders of the family court are affirmed.

DATED: Honolulu, Hawai'i, January 21, 2005.

On the briefs:

Jeffry R. Buchli,
for father-appellant.

Chief Judge

Susan Barr Brandon and
Mary Anne Magnier,
Deputy Attorneys General,
State of Hawai'i,
for petitioner-appellee.

Associate Judge

Associate Judge