

**NOT FOR PUBLICATION**

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NO. 26134

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

IN THE INTEREST OF DOE CHILDREN:  
JANE, Born on July 11, 1998, and  
JANE, Born on August 21, 2001

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT  
(FC-S NO. 01-07856)

SUMMARY DISPOSITION ORDER

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

The Mother of Jane Doe (Jane 1), born on July 11, 1998, and Jane Doe (Jane 2), born on August 21, 2001, appeals from the family court's<sup>1</sup> January 30, 2003 Order Awarding Permanent Custody and January 30, 2003 Letters of Permanent Custody, terminating Mother's parental and custodial duties and rights to, and appointing the State of Hawai'i Director of Human Services (Director) as the permanent custodian of, Jane 1 and Jane 2. The Director was also given the authority to provide consent for the adoption of Jane 1 and Jane 2. Mother also appeals from the September 8, 2003 Orders Concerning Child Protective Act denying Mother's February 19, 2003 motion for reconsideration.

This appeal was assigned to this court on May 19, 2004.

Mother was born in 1967. Mother suffered physical and sexual abuse as a minor and has had a chronic substance abuse

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<sup>1</sup> Judge Linda K. C. Luke presiding.

problem involving crystal methamphetamine since 1991. Mother signed a voluntary foster custody agreement for Jane 1 on June 13, 2001, prior to Jane 1's third birthday. The State of Hawai'i Department of Human Services (DHS) assumed voluntary foster custody of Jane 2 when she was born. Alleging substance abuse and domestic violence issues, DHS filed a petition for foster custody on November 9, 2001. At the January 15, 2002 hearing, by agreement of the parties, the court awarded foster custody of Jane 1 and Jane 2 to the DHS. Review hearings were held on April 10, 2002 and March 25, 2002. The contested permanent plan trial was held on January 30, 2003. The Findings of Fact and Conclusions of Law were entered on February 26, 2003. In this appeal, Mother challenges finds of fact (FsOF) nos. 29, 30, 38, 39, 40 and conclusions of law 1 and 2.

Mother does not challenge the following FsOF:

31. Although Mother has completed treatment, she has not yet demonstrated personal stability or a clean and sober support system, and she continues to be at high risk of relapse because of her emotional and psychological problems and her lack of insight about the dangers of associating with persons who are still using drugs and alcohol.

. . . . .

33. Mother's emotional and psychological problems interfere with her ability to provide a safe home for the children because her dependent characteristics have a negative impact on her functioning and cause her to repeatedly form abusive relationships, and drug use and domestic violence increase stress in her life and further interfere with her ability to attend to the children's needs, and her poor judgment, impulsive behavior, victimization dynamics, self-focus and ambivalence toward meeting the needs of others interfere with her ability to meet the needs of the children.

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36. Recovery from the effects of her own unhappy history of abuse and losses as a young person will take all of Mother's attention in the foreseeable future, and she will not become able to meet the needs of others until her own needs have been met.

37. Mother continues to pose a serious risk of further harm to the children because she has only very recently begun to address her substance abuse and psychological problems which place the children at risk of neglect and exposure to domestic violence, her judgment and insight continue to be poor, and her prognosis for improvement is very poor.

. . . .

56. The children have been residing in the current foster home since February 5, 2002.

. . . .

59. The children are at risk of permanent harm if they experience future neglect or abuse such as exposure to domestic violence or use of crystal methamphetamine by a caregiver.

60. The children are in particular need of stability because of their young ages and because they have been in two foster placements over the past eighteen months.

Mother contends that the State (1) failed to prove by clear and convincing evidence that Mother could not provide a safe family home for her children, and (2) failed to provide every reasonable opportunity to Mother to succeed in reuniting her family.

In accordance with Hawai'i Rules of Appellate Procedure Rule 35, and after carefully reviewing the record and the briefs submitted by the parties, and duly considering and analyzing the law relevant to the arguments and issues raised by Mother, we conclude that Mother's points do not have merit. Therefore,

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IT IS HEREBY ORDERED that the family court's January 30, 2003 Order Awarding Permanent Custody, January 30, 2003 Letters of Permanent Custody, and September 8, 2003 Orders Concerning Child Protective Act are affirmed.

DATED: Honolulu, Hawai'i, January 18, 2005.

On the briefs:

Byron K.H. Hu  
for Mother-Appellant

Chief Judge

Susan Barr Brandon and  
Mary Anne Magnier,  
Deputy Attorneys General,  
for Petitioner-Appellee

Associate Judge

Associate Judge