

NOT FOR PUBLICATION

NO. 27143

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

IN THE INTEREST OF JANE DOE,
Born on June 13, 2003, a Minor

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-S NO. 03-09068)

ENL. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAII

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FILED

SUMMARY DISPOSITION ORDER

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

The mother (Mother) of a female child (Child), born on June 12, 2003, appeals from the family court's^{1/} December 17, 2004 "Order Awarding Permanent Custody" and "Letters of Permanent Custody" that terminated her parental rights and duties to Child, and the January 27, 2005 "Orders Concerning Child Protective Act" that denied Mother's January 6, 2005 motion for reconsideration.

Mother was born on March 11, 1968. On August 30, 2000, after Mother failed to complete substance abuse treatment for her methamphetamine use/alcohol misuse problem, the family court terminated Mother's parental rights and duties to a female child born on August 28, 1999. Thereafter, in December of 2002, while Mother was pregnant with Child, Mother tested positive for methamphetamine and marijuana at her first prenatal visit. At the time Child was born, she was taken into protective custody by the Honolulu Police Department, and placed into the foster home of a relative. On June 18, 2003, the State of Hawai'i Department

^{1/} Judge Michael F. Broderick presided.

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of Human Services (DHS) filed a "Petition for Temporary Foster Custody." On September 12, 2003, the court awarded foster custody of Child to the DHS. A year later, on September 8, 2004, Mother tested positive for methamphetamine. On October 5, 2004, the DHS filed a motion for permanent custody. The trial was held on December 17, 2004. The guardian ad litem for Child recommended that permanent custody be awarded to the DHS. On December 17, 2004, the court entered the "Order Awarding Permanent Custody" and "Letters of Permanent Custody." On January 27, 2005, in the "Orders Concerning Child Protective Act," the court denied Mother's January 6, 2005 "Motion for Reconsideration."

Mother filed the Notice of Appeal on February 25, 2005. On April 15, 2005, the court entered its Findings of Fact and Conclusions of Law. This case was assigned to this court on October 24, 2005.

Mother contends that she "substantially complied with the Service Plan and would have completed the plan if she were permitted additional time." This prediction, however, is contradicted by the record and by finding of fact no. 57, in which the court found, based on substantial evidence, that "Mother continues to pose a serious risk of further harm to [Child] because Mother lacks insight into her own problems and how her actions have harmed Child."

In accordance with Hawai'i Rules of Appellate Procedure Rule 35, and after carefully reviewing the record and the briefs

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submitted by the parties, and duly considering and analyzing the law relevant to the arguments and issues raised by the parties,

IT IS HEREBY ORDERED that the December 17, 2004 "Order Awarding Permanent Custody" and "Letters of Permanent Custody," and the January 27, 2005 "Orders Concerning Child Protective Act" are affirmed.

DATED: Honolulu, Hawai'i, May 12, 2006.

On the briefs:

Edward J.S.F. Smith
for Mother-Appellant.

James A. Burns
Chief Judge

Cornine K. A. Watanabe
Associate Judge

Craig H. Nakamura
Associate Judge