

NO. 27861

IN THE INTERMEDIATE COURT OF APPEALS  
OF THE STATE OF HAWAII

IN THE INTEREST OF "K" CHILDREN:  
K.M.K. (1), K.M.K. (2), K.M.K. (3), AND K.M.K. (4)

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT  
(FC-S No. 03-09091)

SUMMARY DISPOSITION ORDER

(By: Watanabe, Presiding J., Nakamura, and Fujise, JJ.)

In this termination-of-parental-rights case, Mother-Appellant (Mother) appeals from: (a) the Order Awarding Permanent Custody, entered by the Family Court of the First Circuit (the family court)<sup>1</sup> on February 6, 2006, that awarded permanent custody of Mother's two children, K.M.K. (3) and K.M.K. (4) (collectively, Children), to Department of Human Services-Appellee (DHS); and (b) the Orders Concerning Child Protective Act, entered by the family court on March 20, 2006, that denied Mother's motion for reconsideration of the Order Awarding Permanent Custody.

Mother raises two arguments on appeal. First, Mother contends that the evidence adduced in the family court did not clearly and convincingly establish that (a) she was "not presently willing and able to provide [Children] with a safe family home, even with the assistance of a service plan, because of her unresolved substance abuse problem, among other things[;]"

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<sup>1</sup>The Honorable Michael F. Broderick presided over the proceedings below.

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and (b) it was "not reasonably foreseeable that [she] will become willing and able to provide [Children] with a safe family home, even with the assistance of a service plan, within a reasonable period of time not to exceed two years from the time foster custody was first ordered by the [family court], based on her history and present circumstances." Second, Mother maintains that DHS "failed to perform reasonable efforts to reunite [her] with [Children] by wrongly believing [she] had relapsed on October 14, 2005."

The record indicates that the family court relied on the testimony of a DHS social worker in determining that Mother was not presently willing and able, and it was not reasonably foreseeable that Mother would become willing and able, to provide Children with a safe family home.

"Generally, the family court possesses wide discretion in making its decisions and those decision[s] will not be set aside unless there is a manifest abuse of discretion." Fisher v. Fisher, 111 Hawai'i 41, 46, 137 P.3d 355, 360 (2006). An appellate court will therefore "not disturb the family court's decisions on appeal unless the family court disregarded rules or principles of law or practice to the substantial detriment of a party litigant and its decision clearly exceeded the bounds of reason." Id. Moreover, "the family court is given much leeway in its examination of the reports concerning a child's care,

custody, and welfare, and its conclusions in this regard, if supported by the record and not clearly erroneous, must stand on appeal." Id. Furthermore, "an appellate court will not pass upon issues dependent upon the credibility of witnesses and the weight of the evidence; this is the province of the trier of fact." In re Doe, 95 Hawai'i 183, 190, 20 P.3d 616, 623 (2001) (quoting State v. Jenkins, 93 Hawai'i 87, 101, 997 P.2d 13, 27 (2000) (quotation marks omitted)). "In this regard, the testimony of a single witness, if found by the trier of fact to have been credible, will suffice." Id. at 196, 20 P.3d at 629.

Applying the foregoing standards in our review of the record, we conclude that there was substantial evidence in the record to support the family court's termination of Mother's parental rights and award of permanent custody of Children to DHS.

Accordingly, we affirm the family court's orders from which this appeal was taken.

DATED: Honolulu, Hawai'i, February 8, 2007.

On the briefs:

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