

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 28195

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I
IN THE INTEREST OF P.M.

K. HAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

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FILED

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-S No. 03-09072)

SUMMARY DISPOSITION ORDER

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

Father-Appellant (Father) appeals from an order entered by the Family Court of the First Circuit¹ (the family court) on September 26, 2006 (September 26, 2006 Order) that awarded permanent custody of Father's natural son, P.M., to Appellee Department of Human Services, State of Hawai'i (DHS).

Father argues that the family court erred and abused its discretion when it: (1) found and concluded that Father was not presently willing and able to provide P.M. with a safe family home, even with the assistance of a service plan; (2) found and concluded that it was not reasonably foreseeable that Father would become willing and able to provide P.M. with a safe family home, even with the assistance of a service plan, within a reasonable period of time; (3) found that under the circumstances of this case, Father was given every reasonable opportunity to effect positive changes to provide a safe family home and to reunify with P.M.; (4) found that under the circumstances presented by the instant case, DHS exerted reasonable and active efforts to reunify P.M. with Father by identifying necessary, appropriate, and reasonable services to address Father's identified safety issues and timely referrals for these services,

¹The Honorable Paul T. Murakami presided.

as needed; (5) found that each of the service plans ordered by the family court was fair, appropriate, and comprehensive; and (6) entered the September 26, 2006 Order.

The Hawai'i Supreme Court has stated that "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." In re Doe, 101 Hawai'i 220, 227, 65 P.3d 167, 174 (2003) (brackets and internal quotation marks omitted). Moreover, in appeals concerning family court decisions to terminate parental rights,

the question on appeal is whether the record contains "substantial evidence" supporting the family court's determinations, and appellate review is thereby limited to assessing whether those determinations are supported by "credible evidence of sufficient quality and probative value." In this regard, the testimony of a single witness, if found by the trier of fact to have been credible, will suffice.

In re Doe, 95 Hawai'i 183, 196, 20 P.3d 616, 629 (2001)

(citations omitted). Additionally,

[t]he family court possesses wide discretion in making its decisions and those decisions will not be set aside unless there is a manifest abuse of discretion. Under the abuse of discretion standard of review, the family court's decision will not be disturbed unless the family court disregarded rules of principles of law or practice to the substantial detriment of a party litigant and its decision clearly exceeded the bounds of reason.

In re Doe, 77 Hawai'i 109, 115, 883 P.2d 30, 36 (1994)

(citations, brackets, and ellipsis omitted).

After a careful review of the record on appeal and the briefs submitted by the parties, and having duly considered the issues and arguments raised on appeal, as well as the statutory and case law relevant to these issues, we conclude that there is substantial evidence in the record to support the family court's order.

At the time the family court entered its September 26, 2006 Order, Father was serving a twenty-year prison term. Additionally, there is ample evidence in the record of Father's pre-incarceration failures to, among other things: participate in recommended family services, address identified parenting and safety issues, and demonstrate that he can meet the emotional and psychological needs of P.M. Accordingly, we conclude that the family court's findings and conclusions are supported by substantial evidence in the record and are not clearly erroneous, wrong, or a manifest abuse of discretion. Therefore,

IT IS HEREBY ORDERED that the Order Awarding Permanent Custody entered on September 26, 2006 is affirmed.

DATED: Honolulu, Hawai'i, November 21, 2007.

On the briefs:

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for Father-Appellant.

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