

NO. 28185

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I
IN THE INTEREST OF L.B.

E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

2008 JAN 30 AM 9:56

FILED

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-S No. 05-10425)

SUMMARY DISPOSITION ORDER

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

Mother-Appellant (Mother) appeals and Father-Appellant (Father) cross-appeals from the Decision and Order entered by the Family Court of the First Circuit (the family court)¹ on August 31, 2006² that terminated their parental and custodial rights over their child (L.B.) and awarded permanent custody of L.B. to Petitioner-Appellee Department of Human Services, State of Hawai'i (DHS).

Mother contends that the family court abused its discretion in awarding DHS permanent custody over L.B. because: (1) the evidence was not clear and convincing that Mother was unwilling and unable to provide L.B. with a safe home with the assistance of a service plan; (2) DHS has not exerted reasonable and active efforts to reunify L.B. with Mother; (3) there was no clear and convincing evidence upon which the family court could find that the proposed permanent plan for L.B. assisted in meeting the goal of L.B.'s adoption, which DHS identified as being in L.B.'s best interest; and (4) the granting of permanent custody of L.B. to DHS was premature. Mother also challenges

¹The Honorable Bode A. Uale presided.

²Briefing in this case was completed on August 30, 2007 when Mother-Appellant filed her Notice of Non-filing of Reply Brief.

various findings of fact and conclusions of law entered by the family court on November 6, 2006, following the filing of her Notice of Appeal.

Father argues that the family court erred in finding that: (1) he was not willing or able to provide a safe home for L.B., (2) he was unable to provide for the emotional and psychological needs of L.B., and (3) the permanent plan for L.B. was in L.B.'s best interest.

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).

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 the issues raised on appeal, we conclude that there is substantial evidence in the record to support the family court's Decision and Order and Findings of Fact and Conclusions of Law. Accordingly,

IT IS HEREBY ORDERED that the Decision and Order entered by the family court on August 31, 2006 and the Findings

of Fact and Conclusions of Law entered by the family court on November 6, 2006 are affirmed.

DATED: Honolulu, Hawai'i, January 30, 2008.

On the briefs:

Tae W. Kim for
mother-appellant.

Herbert Y. Hamada for
father-appellant.

Mary Anne Magnier and
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