

NO. 28339

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

IN THE INTEREST OF "F" CHILDREN: T.F. and K.F.

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-S NO. 04-09851)

E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2008 JAN 18 AM 7:54

FILED

SUMMARY DISPOSITION ORDER

(By: Foley, Presiding Judge, Nakamura and Fujise, JJ.)

Mother-Appellant appeals from the "Orders Concerning Child Protective Act" (Order) filed on December 18, 2006 in the Family Court of the First Circuit (family court).^{1/} In the Order, the family court denied Mother's November 9, 2006 Motion for Reconsideration of the family court's (1) September 25, 2006 Decision and Order, in which the family court granted the State of Hawai'i's Motion for Order Awarding Permanent Custody and divested Mother and Father of their parental rights over their twin daughters; and (2) the October 20, 2006 Order Awarding Permanent Custody.^{2/}

On appeal, Mother argues that the family court erred by denying her Motion for Reconsideration.

Upon careful review of the record and the briefs submitted by the parties and having given due consideration to the arguments advanced and the issues raised by the parties, as well as the relevant statutory and case law, we conclude that Mother's appeal is without merit. In the Motion for

^{1/} The Honorable Bode A. Uale presided.

^{2/} This court does not have jurisdiction over Mother-Appellant's points on appeal concerning the September 25, 2006 Decision and Order and the October 20, 2006 Order Awarding Permanent Custody because her only timely appeal is of the December 18, 2006 Orders Concerning Child Protective Act.

Reconsideration, Mother argued that the family court should reconsider its September 25, 2006 Decision and Order because: (1) Father had filed a Notice of Appeal, which meant that the Department of Human Services could not implement its Permanent Plan for several years; (2) the Hawaii Paroling Authority's decision at Mother's parole hearing would provide new evidence regarding whether Mother would be able to provide a safe family home within a reasonable period of time; and (3) Mother believed that but for her incarceration status at the time she filed the Motion for Reconsideration, she would be able to provide a safe family home for her children. The family court did not abuse its discretion by denying Mother's Motion for Reconsideration because therein, Mother did not "present new evidence and/or arguments that could not have been presented" at trial in the instant case. See Ass'n of Apartment Owners of Wailea Elua v. Wailea Resort Co., Ltd., 100 Hawai'i 97, 110, 58 P.3d 608, 621 (2002).

Therefore,

IT IS HEREBY ORDERED that the "Orders Concerning Child Protective Act" filed on December 18, 2006 in the Family Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, January 18, 2008.

On the briefs:

Joseph Dubiel
for Mother-Appellant.

Patrick A. Pascual and
Mary Anne Magnier,
Deputy Attorneys General,
for Petitioner-Appellee
Department of Human Services.


Presiding Judge


Associate Judge


Associate Judge