

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 28549

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

IN THE INTEREST OF G.S.,
MinorAPPEAL FROM THE FAMILY COURT OF THE FIFTH CIRCUIT
(CASE NO. FC-S 05-00621)NORMA T. YARA
CLERK APPELLATE COURTS
STATE OF HAWAII

2008 MAY 29 AM 8:14

FILED

SUMMARY DISPOSITION ORDER

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

Appellant-Mother (Mother), the mother of G.S. (Child), appeals from the Decision and Order terminating the parental rights of Child's father (Father) and Mother and awarding permanent custody to the Department of Human Services (DHS) (hereinafter, the "Order Terminating Parental Rights"). The Family Court of the Fifth Circuit (family court) filed the Order Terminating Parental Rights on April 19, 2007.¹

On appeal, Mother contends that the DHS did not provide her with appropriate mental health treatment to enable her to reunite with Child. Based on this contention, Mother argues that the family court clearly erred in finding that it was not reasonably foreseeable that Mother would become able to provide Child with a safe family home within a reasonable period of time. We disagree and affirm the Order Terminating Parental Rights.

After a review of record and the briefs submitted by the parties, we resolve Mother's arguments on appeal as follows:

1. The DHS had an obligation to make reasonable efforts to reunite Mother and Child. In re Doe, 100 Hawai'i 335, 343, 60 P.3d 285, 293 (2002); see Hawaii Revised Statutes (HRS) § 587-1 (2006 Repl.). However, it was Mother's ultimate responsibility to become willing and able to provide Child with a

¹ The Honorable Calvin K. Murashige presided.

safe family home within a reasonable period of time. We conclude that the DHS made reasonable efforts to reunite Mother with Child, including making mental health treatment available to Mother.

2. The family court did not clearly err in determining that it was not reasonably foreseeable that Mother would become able to provide Child with a safe family home within a reasonable period of time. There was substantial evidence in the record to support the family court's finding. See In re Doe, 95 Hawai'i 183, 190, 20 P.3d 616, 623 (2001).²

CONCLUSION

The family court's Order Terminating Parental Rights, which was filed on April 19, 2007, is affirmed.

DATED: Honolulu, Hawai'i, May 29, 2008.

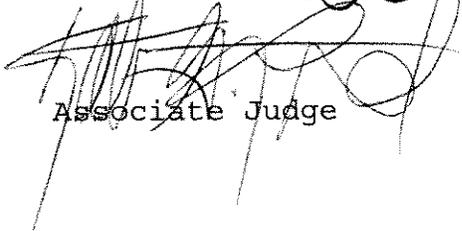
On the briefs:

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Presiding Judge


Associate Judge


Associate Judge

² In one of her points of error, Mother challenges the family court's finding that "Dr. [James] Hall testified that [Mother] was reluctant to receive dialectical behavioral therapy and participate in an ACT [(Assertive Community Treatment)] team." However, Mother's opening brief did not contain any argument regarding this point of error and thus she has waived it. Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b)(7) (2008) ("Points not argued may be deemed waived."). In any event, Mother testified that she did not want to enter the Kona program (which offered an ACT team and dialectical behavioral therapy) because she did not want to leave Kauai and lose her house. Thus any error in the family court's reference to the testimony of Dr. Hall as the source of the information in the challenged finding was harmless.