

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

NO. 29065

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

IN THE INTEREST OF L.D.

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT  
(FC-S NO. 05-1-0161)K. HAMAKADO  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

2009 JAN 26 AM 8:15

FILED

SUMMARY DISPOSITION ORDER

(By: Recktenwald, C.J., Foley and Leonard, JJ.)

Mother-Appellant (Mother) and Father-Appellant (Father) (collectively, Parents) appeal from the Order Awarding Permanent Custody (Order) filed on March 10, 2008 in the Family Court of the First Circuit (family court).<sup>1</sup> The Order terminated Parents' parental rights over their child (L.D.) and awarded permanent custody to Petitioner-Appellee State of Hawaii Department of Human Services (DHS).

On appeal, Parents argue that the family court clearly erred in finding that they were not, and would not be within a reasonable period of time, able to provide a safe family home for L.D. because the family court did not give them reasonable time to do so. Parents ask this court to reverse the Order.

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 resolve Parents' point of error as follows:

The circuit court did not clearly err in finding that Parents were not, and would not be within a reasonable period of time, able to provide a safe family home for L.D.. In re Doe, 95 Hawaii 183, 190, 20 P.3d 616, 623 (2001) (family court's determinations under Hawaii Revised Statutes § 587-73(a) are reviewed on appeal under the clearly erroneous standard); see also In re Doe, 103 Hawaii 130, 135, 80 P.3d 20, 25 (App. 2003).

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<sup>1</sup> The Honorable Christine E. Kuriyama presided.

The record reveals substantial evidence of Parents' long-standing history of substance abuse; DHS's active offers of services to assist Parents in rehabilitating their substance-abuse problems since February 10, 2005, when L.D. was first placed under foster custody (approximately 2.5 years before DHS filed its Motion for Permanent Custody); and Parents' repeated failure to receive consistent treatment.<sup>2</sup> Where there was substantial evidence for the family court to determine that Parents were not presently able to provide a safe home for L.D. and would not be able to do so within a reasonable period of time, we hold that the family court's finding was not clearly erroneous.

Therefore,

The Order filed on March 10, 2008 in the Family Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, January 26, 2009.

On the briefs:

Joseph Dubiel  
for Mother-Appellant.

Herbert Y. Hamada  
for Father-Appellant.

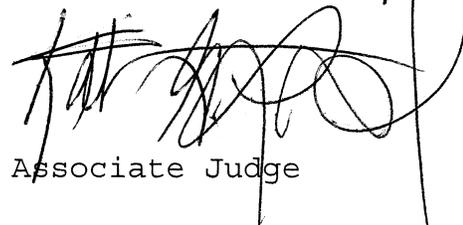
Catherine A. Betts  
Mary Ann Magnier  
Deputy Attorneys General  
for Petitioner-Appellee  
Department of Human Services.



Chief Judge



Associate Judge



Associate Judge

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<sup>2</sup> Parents do not dispute that DHS had advised Parents since February or March 2005 of the services they needed to undergo in order to provide a safe family home for L.D.; Parents were frequently referred to substance-abuse or UA assessments and substance-abuse and UA programs; Parents failed to follow through with the recommendations from their assessments; Parents failed to establish 90 consecutive days of sobriety, demonstrated by participating in a random UA program for 90 days; Parents failed to keep in contact with their assigned DHS social worker; Mother, while pregnant with D.D., and Father both relapsed by ingesting methamphetamines as recently as January 2007; Parents failed to be admitted to the Family Drug Court program by the June 7, 2007 hearing; and Parents remained untreated for their substance-abuse problems at the time of trial.