

NO. 29238

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

IN THE MATTER OF D.B., A Minor Person

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT  
(FC-MISCELLANEOUS NO. 08-1-0198)

2009 APR 29 AM 8:00  
JAMES K. HANAKA  
CLERK, APPELLATE COURT  
STATE OF HAWAII

FILED

SUMMARY DISPOSITION ORDER

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

In this appeal arising from a proceeding related to an adoption, Petitioner-Appellant (Petitioner) challenges the Order Dismissing Petition for Injunctive and Declaratory Relief filed on June 9, 2008 in the Family Court of the First Circuit (family court).<sup>1</sup> The family court dismissed Petitioner's February 22, 2008 Petition for Injunctive and Declaratory Relief (Petition), which sought to nullify the adoption of Petitioner's biological child, D.B.

Petitioner gave birth to D.B. and two days later signed papers to give up D.B. for adoption. Respondent-Appellee LDS Family Services (LDS) facilitated the adoption. Respondents-Appellees Married Couple agreed to adopt D.B. Married Couple reside in and initiated adoption proceedings in Oregon.

Two days after signing the papers, Petitioner changed her mind about the adoption. Four days later, Petitioner filed her Petition, seeking to enjoin Married Couple from removing D.B.

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<sup>1</sup> The Honorable William J. Nagle III presided.

from the State of Hawai'i. On March 10, 2008, Petitioner filed a Supplemental Petition for Injunctive Relief and Declaratory Relief.

LDS filed an opposition to the Petition.

On May 14, 2008, LDS and Married Couple filed a motion to dismiss the Petition for lack of subject matter jurisdiction. On May 22, 2008, prior to the start of trial, the family court orally denied the motion.

After a two-day trial, the family court filed its Order Dismissing Petition for Injunctive and Declaratory Relief on June 9, 2008. The family court found that Petitioner failed to carry her burden of proof "by clear and convincing evidence that her signed consents to release and surrender for adoption her minor child, [D.B.], were obtained by fraud, duress and/or undue influence" and "by a preponderance of the evidence that it is in [D.B.'s] best interests to permit Petitioner to withdraw her consent to the adoption of [D.B.]."

On July 3, 2008, Petitioner filed a notice of appeal. The family court filed its Findings of Fact and Conclusions of Law on August 29, 2008.

On appeal, Petitioner contends the family court "erred in denying that [Petitioner] had not proven her case of fraud and duress by clear and convincing evidence, and denying her petition to revoke her consent to adoption." Petitioner does not specifically contest any of the family court's Findings of Fact or Conclusions of Law as required by Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b)(4)(C). Points not presented in accordance with HRAP Rule 28(b)(4) "will be disregarded, except that the appellate court, at its option, may notice a plain error not presented." We discern no plain error.

Therefore,

The Order Dismissing Petition for Injunctive and Declaratory Relief filed on June 9, 2008 in the Family Court of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, April 29, 2009.

On the briefs:

André S. Wooten  
for Petitioner-Appellant.

James E.T. Koshiba  
Lisa Anne Gruebner  
(Koshiba Agena & Kubota)  
for Respondents-Appellees.



Chief Judge



Associate Judge



Associate Judge