

NOS. 29734 and 29733

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

No. 29734
IN THE INTEREST OF A.H.
(FC-S No. 05-10449)

and

No. 29733
IN THE INTEREST OF S.H.
(FC-S No. 06-10777)

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT

SUMMARY DISPOSITION ORDER

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

This consolidated appeal challenges the Orders Awarding Permanent Custody and the Letters of Permanent Custody entered by the Family Court of the First Circuit (family court) on March 16, 2009 in two cases brought to protect two children (Children) of the same mother, Mother-Appellant (Mother): (1) Appeal No. 29733, from FC-S No. 06-10777, which relates to child S.H., whose legal father is D.G. (Father); and (2) Appeal No. 29734, from FC-S No. 05-10449, which relates to child A.H., whose legal father is also Father.

Mother's sole argument on appeal is that the family court erred in determining that the State of Hawai'i Department of Human Services (DHS) had "made reasonable efforts to reunify [Children] with Mother[.]" Mother states that although she "had been provided with some services relating to substance abuse, parenting, therapy and anger management throughout these cases, she had only been properly diagnosed with bipolar disorder within the two (2) months prior to trial and after almost four (4) years after the court ordered the initial service plan." Mother

further states: "Had DHS had appropriate services in place from the beginning of the cases to address Mother's mental health issues, those issues could have been appropriately addressed through medication management and therapy and Mother could have conceivably had a more realistic opportunity of making progress towards the goal of reunification with [Children]."

Upon review of the record on appeal and the briefs submitted by the parties, and having given due consideration to the issues and arguments presented, as well as the relevant statutory and case law, we disagree with Mother.

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) (internal quotation marks and brackets 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). Additionally,

[t]he family court possesses wide discretion in making its decisions and those decisions will not be set aside unless there is a manifest abuse of discretion. Under the abuse of discretion standard of review, the family court's decision will not be disturbed unless "the family court disregarded rules or principles of law or practice to the substantial detriment of a party litigant and its decision clearly exceeded the bounds of reason."

In re Doe, 77 Hawai'i 109, 115, 883 P.2d 30, 36 (1994) (citations, brackets, and ellipsis omitted).

Mother has not challenged any of the family court's findings of facts which support the family court's conclusions of law, and these findings of facts are therefore binding on Mother. Taylor-Rice v. State, 91 Hawai'i 60, 65, 979 P.2d 1086, 1091 (1999).

Additionally, the record on appeal indicates that Mother's mental health issues were just one factor considered by the family court in terminating Mother's parental rights over Children. The family court also considered Mother's history of drug addiction; numerous relapses after treatment; positive urinalysis results; missed urinalysis tests; inappropriate parenting skills; chaotic lifestyle and erratic behavior that exposed Children to an unsafe family home; poor coping skills; failure to regularly participate in individual therapy; anger-management problems; failure to integrate concepts learned by Mother in parenting-education classes; erratic visits with Children; and vacillating compliance with service plans relating to Children, as well as her history of poor compliance with the service plans ordered in family-court proceedings regarding her other children.

There is also no merit to Mother's argument that any failure to diagnose Mother as suffering from a bipolar disorder was due to DHS's failure to provide reasonable services. The delayed diagnosis of bipolar disorder appears to have been, at least in part, the result of Mother's failure to participate or cooperate in the psychological services made available by DHS. DHS social worker Rona Martin testified that DHS had a concern about whether Mother was being truthful in her therapy sessions. Although Dr. Kalei Ahokovi believed that Mother had shown signs of a bipolar disorder, Mother denied having some key symptoms for such a diagnosis. Mother also had a pattern of starting and stopping therapy and changing therapists, thus impairing DHS's reunification efforts.

Accordingly, we affirm the Orders Awarding Permanent Custody and the Letters of Permanent Custody entered by the

family court on March 16, 2009 in FC-S Nos. 06-10777 and 05-10449.

DATED: Honolulu, Hawai'i, December 2, 2009.

On the briefs:

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