NO. 28757

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAIʻI

ALAN H.J. YUEN, Plaintiff-Appellant, v.
SUSAN T.A. YUEN, Defendant-Appellee

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-DIVORCE NO. 05-1-1999)

SUMMARY DISPOSITION ORDER
(By: Foley, Presiding J., Fujise and Reifurth, JJ.)

Plaintiff-Appellant Alan H.J. Yuen (Alan) appeals from the Decree Granting Absolute Divorce and Awarding Child Custody (Decree) filed on August 23, 2007 in the Family Court of the First Circuit (family court).[1] In the Decree, the family court granted Alan's request for a divorce from Defendant-Appellee Susan T.A. Yuen (Susan), ordered Alan to pay child support to Susan on behalf of the parties' three children, divided the couple's assets and debts, ordered an equalization payment to Alan be sequestered for the benefit of the parties' children, and awarded Susan attorney's fees and costs. On November 14, 2007, the family court issued written Findings of Fact and Conclusions of Law.

[1] The Honorable Christine E. Kuriyama presided.

On appeal, Alan argues that the family court erred

(1) in denying his request for assistance from his girlfriend, Eva Kim (Kim), at trial, in violation of Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. § 12131-12165;

(2) in awarding Alan his retirement benefits without adjusting for the fact that the benefits constitute a pretax asset and in valuing the benefits at $84,411;

(3) by including as a marital asset and awarding to Alan Li'l Audrey, which boat Alan had owned prior to the divorce action, and issuing clearly erroneous Findings of Fact (FOFs) 47, 50, 52, 53, 55, 56, 99, and 100 and wrong Conclusions of Law (COLs) 20 and 34;

(4) by including as a marital asset and awarding to Alan $50,000 he allegedly withdrew from his Independent Retirement Account and issuing clearly erroneous FOFs 63 and 101 and wrong COL 35;

(5) by including as a marital asset and awarding to Alan his lump sum Social Security Disability Insurance payment of $23,952 and issuing clearly erroneous FOFs 67 and 102;

(6) in calculating Alan's income for child support purposes and issuing clearly erroneous FOFs 24-30, 35, 38, and 78 and wrong COL 7;

(7) in requiring Alan's award of assets from the marital estate to be sequestered and issuing clearly erroneous FOFs 37, 40, 43, 74, 75, 77, and 87 and wrong COLS 29-32, and 36-40;

(8) in memorializing the FOFs and COLs mentioned in points of error 2-5 and 7 in the Sequestration of Equalization Payment section of the Decree; and

(9) finding in its "Order Granting [Susan's] Motion for an Award of Attorney's Fees & Costs Pursuant to Hawaii Family Court Rule 68" (Attorney's Fees Award) that Susan was entitled to an award of attorney's fees and costs.

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 Alan's points of error as follows:

(1) The family court did not err in denying Alan's request for assistance from Kim at trial. Alan failed to show he was a "qualified individual with a disability" entitled to accommodations under the ADA because the evidence shows Alan was competent to understand the nature of the divorce proceedings and was competent to present his case and conduct a defense. 42 U.S.C.A. § 12131.

(2) With regard to Alan's remaining arguments on appeal, he cites to no authority in support of his contentions, and we deem them waived. Hawaii Rules of Appellate Procedure Rule 28(b)(7); see Ala Moana Boat Owners' Ass'n v. State, 50 Haw. 156, 158, 434 P.2d 516, 518 (1967); Bettencourt v. Bettencourt, 80 Hawaiʻi 225, 230, 909 P.2d 553, 558 (1995); see also Int'l Sav. & Loan Ass'n, Ltd. v. Carbonel, 93 Hawaiʻi 464, 473, 5 P.3d 454, 463 (App. 2000); Citicorp Mortgage, Inc. v. Bartolome, 94 Hawaiʻi 422, 433, 16 P.3d 827, 838 (App. 2000).

Therefore,

IT IS HEREBY ORDERED that the Decree Granting Absolute Divorce and Awarding Child Custody filed on August 23, 2007 in the Family Court of the First Circuit is affirmed.

DATED: Honolulu, Hawaiʻi, December 16, 2010.

On the briefs:

Samuel P. King, Jr.
for Plaintiff-Appellant.

Susan T.A. Yuen,
Defendant-Appellee pro se.

Presiding Judge

Associate Judge

Associate Judge