

NO. 29983

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

IN THE INTEREST OF RJ, JJ, MJ, DJ, RJ2, and LH,
Minors

APPEAL FROM THE FAMILY COURT OF THE FIFTH CIRCUIT
(FC-S NO. 07-00668)

SUMMARY DISPOSITION ORDER

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

Appellant Mother (Mother) appeals from the Decision and Order Terminating the Parental Rights of [Mother] and Awarding Permanent Custody filed on June 10, 2009 in the Family Court of the Fifth Circuit (family court).¹

On appeal, Mother contends the State of Hawai'i Department of Human Services (DHS) failed to prove that she could not provide a safe family home. Mother argues that none of the service providers stated that she lacked insight to provide a safe home and a lone social worker from DHS determined that Mother lacked insight. Mother further argues that if she failed to achieve insight, then DHS failed to provide her with an adequate service plan designed to give her insight.

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 Mother's points of error as follows:

DHS proved by clear and convincing evidence that Mother was not presently willing and able to provide a safe family home

¹ The Honorable Calvin K. Murashige presided.

and would not be willing and able to provide a safe family home in the reasonably foreseeable future even with the assistance of a service plan.

Although Mother argues that DHS's contention that she lacked "insight" is a red herring and a lone DHS social worker should not make such a determination, there is ample evidence that Mother cannot provide a safe family home for her children. Initially, Mother denied any physical abuse of her children had occurred. However, evidence in the record indicates that several of the children reported being physically abused by her and her male associate. One child had scars on his arm and back from being whipped with an object. Yet, Mother continued to deny that any abuse occurred, continued her relationship with her male associate despite her children's fear the male associate would harm or kill them, and stated that her children were lying about the abuse. Mother's continued denial that abuse occurred demonstrates she cannot grasp the basic reason why DHS is still involved with her and her children after two years.

Mother demonstrated she could not presently provide a safe family home because she did not address her children's fear of her male associate. Mother's refusal to address claims of abuse and statements that her children were lying also demonstrate that she would be unwilling to protect them in the future because she would not believe any claims of abuse or address claims of abuse.

Mother's claim that DHS failed to provide an adequate service plan is without merit. There is no service plan DHS can provide that can force Mother to acknowledge that her children were abused if she simply chooses to ignore the voluminous and credible evidence presented to her.

Therefore,

IT IS HEREBY ORDERED that the Decision and Order Terminating the Parental Rights of [Mother] and Awarding

Permanent Custody filed on June 10, 2009 in the Family Court of the Fifth Circuit is affirmed.

DATED: Honolulu, Hawai'i, September 10, 2010.

On the briefs:

Herbert Y. Hamada
for Mother-Appellant.

Russell K. Goo,
Jay K. Goss,
Mary Anne Magnier,
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for Department of Human
Services-Appellee

Chief Judge

Associate Judge

Associate Judge