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Intermediate Court of Appeals
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NO. 30586

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAI'I

IN THE INTEREST OF JM

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-S NO. 07-11563)

SUMMARY DISPOSITION ORDER

(By: Foley, Presiding Judge, Fujise and Leonard, JJ.)

Father-Appellant (Father) appeals from the Order Awarding Permanent Custody (Order) entered on June 23, 2010 in the Family Court of the First Circuit (family court).¹ In the Order, the family court found, among other things, that Father was not willing or able to provide JM with a safe family home, even with the assistance of a service plan, and would not become willing or able to do so within a reasonable period of time. The court granted the Department of Human Services' (DHS's) Motion for Order Awarding Permanent Custody and Establishing a Permanent Plan (Motion for Permanent Custody), divested Father's rights to JM, appointed DHS permanent custodian of JM, and ordered DHS's proposed permanent plan dated January 7, 2009 (Permanent Plan).

¹ The Honorable Christine E. Kuriyama issued the order.

On appeal, Father argues that the family court erred in granting DHS's Motion for Permanent Custody, awarding DHS permanent custody of JM, and ordering the Permanent Plan. Related to this argument is his contention that in the court's "Supplemental Record on Appeal [Findings of Fact and Conclusions of Law]," entered on September 16, 2010, Findings of Fact (FOF) 65-68, 72, 78-80, 82, 84-91, 99-103, 110, 112-13, 115-16, 118, 121-29, and 134 are clearly erroneous and Conclusions of Law (COL) 143-46 are wrong.

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, we resolve Father's points of error as follows:

There was substantial evidence supporting the Order Awarding Permanent Custody, and COL 143-46 are not wrong.

(1) The FOF Father contests are not clearly erroneous because they are supported by substantial evidence in the record.

(2) We decline to review the family court's credibility determinations set forth in FOF 116 and 122-29 and weight-of-the-evidence determinations set forth in FOF 65-68, 72, 78-80, 82, 84-91, and 99-103. In re Doe Children, 108 Hawai'i 134, 141, 117 P.3d 866, 873 (App. 2005).

(3) Father misconstrues the record with regard to Arthur Jarrell Spires, whom the court found to be a credible witness.

(4) Although he contests FOF 110, 112-13, 115, 118, 121, and 134, Father provides no discernible argument with regard to those FOF, and we deem the issues waived. See Kaho'ohanohano v. Dept. of Human Svcs. State of Haw., 117 Hawai'i 262, 297 n.37,

178 P.3d 538, 573 n.37 (2008); Hawai'i Rules of Appellate Procedure Rule 28(b)(7).

Therefore,

IT IS HEREBY ORDERED that the Order Awarding Permanent Custody, entered on June 23, 2010 in the Family Court of the First Circuit, is affirmed.

DATED: Honolulu, Hawai'i, May 26, 2011.

On the briefs:

Tae W. Kim,
for Father-Appellant.


Presiding Judge

Erin L.S. Yamashiro and
Mary Anne Magnier,
Deputy Attorneys General
for Petitioner-Appellee.


Associate Judge


Associate Judge