

NO. CAAP-11-0000579

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

MEGGAN MARIE AYAD, aka, MEGGAN MARIE PHARMER,
Plaintiff-Appellant

v.

AMR ELSAYED AYAD,
Defendant-Appellee

APPEAL FROM THE FAMILY COURT OF THE SECOND CIRCUIT
(FC-D NO. 08-1-0154)

ORDER DISMISSING APPEAL AS MOOT

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

Upon consideration of "Amr Elsayed Ayad's Motion to Dismiss" (Motion to Dismiss), filed by Defendant-Appellee Amr Elsayed Ayad (Ayad) on July 7, 2012, the papers in support and in opposition, and the records and files herein, it appears that on August 1, 2011, Plaintiff-Appellant Meggan Marie Ayad, now known as Meggan Marie Pharmer, (Pharmer) filed a Notice of Appeal, giving notice of her appeal from the Family Court of the Second

Circuit's (family court's) "Order Re: Defendant's Motion and Affidavit for Post-Decree Relief, Filed February 18, 2011," filed on June 21, 2011; "Order Denying Motion for Reconsideration of the Order Re: Defendant's Motion and Affidavit for Post-Decree Relief, Filed February 18, 2011 (Filed 6/21/11)," filed on July 20, 2011; and "the court's refusal" to hear "[Pharmer's] Motion to Bar the Parties from Removing the Child from the United States," filed on July 19, 2011. On September 2, 2011, Pharmer filed a Notice of Appeal, giving notice of her appeal from the family court's "Order Re: Long Term Visitation Plan," filed on August 3, 2011, and "Order Denying Motion for Stay Upon Appeal," filed on August 16, 2011."

On October 10, 2011, Pharmer filed "[Pharmer's Jurisdictional Statement." On February 29, 2012, she filed an Opening Brief.

On March 17, 2012, while the appeal was still pending, Pharmer died. On May 22, 2012, the family court filed an "Order Granting in Part and Denying in Part [Ayad's] Motion and Affidavit for Post-Decree Relief" (Order Awarding Ayad Full Custody), in which the court, *inter alia*, awarded Ayad sole legal and physical custody of Child. On July 7, 2012, Ayad filed the instant Motion to Dismiss, in which he moves to dismiss the appeal as moot.

Given Pharmer's death and the Order Awarding Ayad Full Custody, "the two conditions for justiciability relevant on appeal -- adverse interest and effective remedy -- have been compromised." Hamilton ex rel. Lethem v. Lethem, 119 Hawai'i 1,

5, 193 P.3d 839, 843 (2008). No exception to the mootness doctrine applies.

Therefore, IT IS HEREBY ORDERED that the Motion to Dismiss is granted. This appeal is dismissed as moot.

DATED: Honolulu, Hawai'i, September 12, 2012.

Presiding Judge

Associate Judge

Associate Judge