NO. CAAP-15-0000418

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAIʻI

RNM, Petitioner-Appellee, v. JMKK, Respondent-Appellant, and CHILD SUPPORT ENFORCEMENT AGENCY, STATE OF HAWAIʻI, Respondent-Appellee

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-P NO. 13-1-6166)

ORDER DISMISSING APPEAL
(By: Fujise, Presiding Judge, Reifurth and Ginoza, JJ.)

Upon review of the record, the papers in support, and the records and files herein, it appears that on June 5, 2014, Petitioner-Appellee RNM (Father) and Respondent-Appellant JMKK (Mother) entered into, and the Family Court of the First Circuit (Family Court)[1] approved and ordered, a "Stipulation Regarding Petitioner's Petition for Paternity or For Custody, Visitation and Support Orders After Voluntary Establishment of Paternity Filed May 3, 2013" (Stipulation/Order) regarding their child RJKK (Child) in FC-P No. 13-1-6166. Subsequently, Mother appealed from a July 15, 2014 order (First Order) denying her July 11, 2014 "Motion for Relief After Judgment or Order" (First Motion for Relocation) in which Mother sought, among other things to relocate with Child to Oklahoma. This appeal was given number CAAP-14-0001051. On November 12, 2015, this court held that Mother had made a sufficient showing of a material change in circumstances between the June 5, 2014 Stipulation/Order and her First Motion for Relocation, vacated the First Order, and

[1] The Honorable Gale L.F. Ching presided.

remanded the case to the Family Court for further proceedings. RNM v. JMKK, No. CAAP-14-0001051, 136 Hawaiʻi 372, 362 P.3d 805, 2015 WL 7075178 (App. Nov. 12, 2015) (mem.). On February 29, 2016, Father applied to the Hawaiʻi Supreme Court for a writ of certiorari in SCWC-14-0001051, which the supreme court rejected on April 12, 2016.

On February 4, 2015, while the appeal in CAAP-14-0001051 was pending, Mother filed a second "Motion for Relief after Judgment or Order" (Second Motion for Relocation), seeking permission to relocate out of state and for sole legal custody. Mother asserted that circumstances substantially changed since the Stipulation/Order because her parents and sisters, whom she lived with and were her only support system, had moved to Oklahoma. On March 9, 2015, the Family Court entered an order denying Mother's Second Motion for Relocation (Second Order), on the basis that she relied on the same circumstances which were the basis of her First Motion for Relocation and the First Order was still pending on appeal.

On March 2, 2015--after the Family Court orally ruled on the February 4, 2015 motion, but before the Second Order was entered--Mother filed a "Motion to Reconsider [the] February 19, 2015 Order and Decision on the Motion for Relief after Judgment or Order Filed [February 4, 2015][2]" (Motion for Reconsideration). In this Motion for Reconsideration, Mother asserted the same facts in support of her argument that circumstances significantly changed as she did in her Second Motion for Relocation. The Family Court denied the Motion for Reconsideration in an April 20, 2015 order. Mother now appeals from the orders denying her Second Motion for Relocation and Motion for Reconsideration.

"It is axiomatic that mootness is an issue of subject matter jurisdiction. Whether a court possesses subject matter jurisdiction is a question of law reviewable *de novo*." Cty. of Hawaiʻi v. Ala Loop Homeowners, 123 Hawaiʻi 391, 403-04, 235 P.3d 1103, 1115-16 (2012) (citation omitted).

[2] Mother's motion, filed *pro se*, incorrectly stated the Motion for Relief was filed December 19, 2014.

> "It is established in Hawaiʻi that
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> > [a] case is moot where the question to be determined is abstract and does not rest on existing facts or rights. Thus, the mootness doctrine is properly invoked where 'events . . . have so affected the relations between the parties that the two conditions for justiciability relevant on appeal--adverse interest and effective remedy--have been compromised.'"

In re Doe Children, 105 Hawaiʻi 38, 56, 93 P.3d 1145, 1163 (2004) (citations omitted).

Based on this court's holding in RNM v. JMKK, Mother no longer has an adverse interest or an effective remedy. Her Second Motion for Relocation asserted the same facts in support of her argument that there was a material change in circumstances as her First Motion for Relocation. This court has already granted the remedy Mother seeks in this appeal by vacating the Family Court's First Order and remanding for a determination of whether the change in custody is in the best interests of the child. RNM v. JMKK, mem. op. at *4.

Therefore, IT IS HEREBY ORDERED that this appeal is dismissed as moot.

DATED: Honolulu, Hawaiʻi, June 2, 2016.

On the briefs:

Dominique Tansley,
for Respondent-Appellant.

Presiding Judge

Elsa F.M. McGehee and
Amanda O. Jenssen,
for Petitioner-Appellee.

Associate Judge

Associate Judge