

NO. CAAP-21-0000029

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

WH, Petitioner-Appellee, v.
AH, Respondent-Appellant

APPEAL FROM THE FAMILY COURT OF THE SECOND CIRCUIT
(FC-P NO. 20-1-0106)

ORDER GRANTING IN PART AND DENYING IN PART
MOTION FOR RECONSIDERATION

(By: Leonard, Presiding Judge, Hiraoka and Nakasone, JJ.)

Upon consideration of the November 2, 2021 Motion for Reconsideration of Order Granting Motion to Dismiss Appeal for Lack of Appellate Jurisdiction Entered October 28, 2021 (**Motion for Reconsideration**), by Respondent-Appellant AH (**Mother**), the papers in support, and the record, it appears that on September 15, 2021, Petitioner-Appellee WH (**Father**) filed a motion to dismiss the appeal for lack of jurisdiction (**Motion to Dismiss**).

On September 21, 2021, the court granted Mother's September 16, 2021 motion for an extension of time to file an opposition to the Motion to Dismiss, and extended the deadline to October 4, 2021. On October 3, 2021, Mother filed her opposition.

On October 28, 2021, the court granted the Motion to Dismiss (**Order Granting Motion to Dismiss**) on the ground that the family court had not entered a final, appealable judgment, order, or decree, and the appealed January 5, 2021 Order Granting [Father's] Amended Petition for Custody, Visitation, Support

Orders After Voluntary Establishment of Paternity (**Order Granting Amended Petition**) was not independently appealable. The court explained that it had not considered Mother's opposition because it was untimely, under Hawai'i Rules of Appellate Procedure (**HRAP**) Rule 27(a).

In the Motion for Reconsideration, Mother maintains that the court erred by holding that her opposition to Dismiss was untimely. She also argues that the court should not have granted the Motion to Dismiss, raising arguments that are substantially similar to those in her opposition to the Motion to Dismiss.

In the Order Granting Motion to Dismiss, the court failed to take notice of its September 21, 2021 order granting Mother's motion for an extension of time for the opposition, which Mother timely filed on October 3, 2021. This was error. However, having considered Mother's timely filed opposition to the Motion to Dismiss and the Motion to Reconsider, Mother has failed to present any point of law or fact that the court overlooked or misapprehended with regard to its determination that the Order Granting Amended Petition is not final and appealable and does not fall within an exception to the final-judgment requirement. See HRAP Rule 40(a).

Therefore, IT IS HEREBY ORDERED that the Motion for Reconsideration is granted in part and denied in part as follows:

1. Mother's request that the court reconsider its determination in the Order Granting Motion to Dismiss that Mother's opposition to the Motion to Dismiss was untimely, is granted.

2. All other requested relief is denied.

DATED: Honolulu, Hawai'i, November 8, 2021.

/s/ Katherine G. Leonard
Presiding Judge

/s/ Keith K. Hiraoka
Associate Judge

/s/ Karen T. Nakasone
Associate Judge