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NO. CAAP-24-0000743

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

J.R., Petitioner-Appellee, v.
C.T., Respondent-Appellant

APPEAL FROM THE FAMILY COURT OF THE THIRD CIRCUIT
(CASE NO. 3DA201000752)

SUMMARY DISPOSITION ORDER

(By: Nakasone, Chief Judge, Leonard and Guidry, JJ.)

Self-represented Respondent-Appellant C.T. (**C.T.**)

appeals from the October 30, 2024 Order Re Motion and Declaration to Amend [or] Dissolve the Existing Order, which was entered by the Family Court of the Third Circuit (**Family Court**)¹ (**Order Denying Motion to Amend/Dissolve**).

C.T. raises five points of error on appeal, contending that the Family Court: (1) abused its discretion in entering the Order Denying Motion to Amend/Dissolve because C.T. was entitled to relief from the Family Court's November 9, 2021 Order for Protection (**Protective Order**) due to mistake, inadvertence, and surprise beyond his control; (2) abused its discretion in entering the Order Denying Motion to Amend/Dissolve because C.T. was entitled to relief from the Protective Order considering that

¹

The Honorable Jeffrey W. Ng presided.

C.T.'s failure to appear at the November 9, 2021 hearing was due to technical issues and miscommunication; (3) abused its discretion in entering the Order Denying Motion to Amend/Dissolve because his delay in filing a motion to set aside was due to C.T. being misinformed that the case was dismissed, which should be considered excusable neglect; (4) erred in entering the Protective Order because the evidence did not support a finding of harm to his children; and (5) abused its discretion in entering the Order Denying Motion to Amend/Dissolve because the Family Court disregarded the logistical issues that prevented C.T. from being present at the November 9, 2021 hearing.

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, we resolve C.T.'s points of error as follows:

(1, 2, 3, & 5) C.T. argues, variously, that the Family Court abused its discretion in entering the Order Denying Motion to Amend/Dissolve because his default in appearing at the November 9, 2021 hearing was due to technical difficulties, miscommunications, mistake and/or inadvertence.

C.T. did not appeal the Protective Order or timely move to reconsider, alter or amend the order under Hawai'i Family Court Rules (**HF**CR) Rule 59(e). On August 1, 2022, 265 days after the Protective Order was entered, C.T. filed a Motion to Set Aside Default Judgement Pursuant to Rule 60(b) (**Rule 60(b) Motion**). C.T. argued he was unfairly defaulted at the November 9, 2021 evidentiary hearing because he attempted to attend the hearing by Zoom but was never admitted into the courtroom from

the digital lobby. On September 14, 2022, the Family Court entered an order denying the Rule 60(b) Motion, citing HFCR Rule 55(c), and stating that the Family Court did not find good cause to set aside its November 9, 2021 entry of default and judgment of default. C.T. did not appeal the September 14, 2022 order denying the Rule 60(b) Motion.

On August 30, 2023, C.T. filed a Proposed Motion for Modification of Order (**Motion to Modify**), requesting that the Family Court dissolve, terminate or cancel the Protective Order. The Motion to Modify alleged that self-represented Petitioner-Appellee J.R. (**J.R.**) made false and defamatory representations about C.T. to the police, the Judiciary, and the public, and cited the Fourteenth Amendment to the U.S. Constitution and 18 U.S.C. § 242 (1996) (deprivation of rights under color of law) as bases for relief from the Protective Order. The Family Court entered an order denying the Motion to Modify without a hearing. C.T. did not appeal this order.

On October 28, 2024, C.T. filed a document entitled (Proposed) Motion and Declaration to Amend, Dissolve the Existing Order, which cited Hawaii Revised Statutes (**HRS**) § 586-9 (2018) as the basis for relief, but again argued, variously, that the Family Court erred in entering the Protective Order. This motion was denied without a hearing, with the entry of the Order Denying Motion to Amend/Dissolve. C.T. timely filed the notice of appeal.

It appears that the Family Court may have reviewed C.T.'s October 28, 2024 motion as an untimely fourth motion for

reconsideration of the Protective Order.² As in other Hawai'i courts, in the family courts, "[r]econsideration is not a device to relitigate old matters or to raise arguments or evidence that could and should have been brought during the earlier proceeding." Tagupa v. Tagupa, 108 Hawai'i 459, 465, 121 P.3d 924, 930 (App. 2005); see also Cuerva & Assocs. v. Wong, 1 Haw. App. 194, 199, 616 P.2d 1017, 1021 (1980) (questioning a party's authority to seek reconsideration of a denial of prior motions brought under HRCF Rules 59(a), 59(e) and 60(b)(6)); Pro. Sponsoring Fund v. Rao, 5 Haw. App. 382, 384, 694 P.2d 885, 887 (1985) (holding that a party is entitled to file one HRCF Rule 59(e) motion for reconsideration of a denial of an HRCF Rule 60(b) motion). We conclude that the Family Court did not abuse its discretion in summarily denying reconsideration of the Protective Order based on C.T.'s representations/arguments in the October 28, 2024 motion.

C.T. makes no cogent argument on appeal that he was entitled to relief pursuant to HRS § 586-9. Nevertheless, in light of his self-represented status, we note that HRS § 586-9 requires a party requesting modification of an order for protection to demonstrate that there has been a "material change in the circumstances of the parties since the issuance or last modification of the order" and expressly permits a family court to deny such motion without a hearing "if the motion, on its face, does not allege facts sufficient to establish a material

² As discussed above, C.T. did not file an appeal from the Protective Order or any of the prior orders denying relief from the Protective Order.

change in the circumstances of the parties[.]”³ The only factual assertion was that “my daughter is tired of not being able to see me, she and [J.R.] get in fights because of this[.] [W]e live in the same town she sees me in passing and doesn't understand why she can't hangout with me[.]” We conclude that the Family Court did not abuse its discretion in determining that the October 28, 2024 motion, on its face, does not allege facts sufficient to establish a material change in the circumstances.

(4) C.T.'s fourth point of error directly challenges the Protective Order. This court lacks jurisdiction to review the Protective Order, which was entered on November 9, 2021, or the prior orders seeking relief from the Protective Order. See Hawai'i Rules of Appellate Procedure Rule 4(a)(3) (appeal must be filed within thirty days); see also Wong v. Wong, 79 Hawai'i 26, 29, 897 P.2d 953, 956 (1995) (“An appellant's failure to file a timely notice of appeal is a jurisdictional defect that can neither be waived by the parties nor disregarded by the court in the exercise of judicial discretion.”).

Finally, we address (1) J.R.'s April 29, 2025 submission to this court entitled Response to Notice of Default of Answering Brief (ND4) (**Response to Default**), arguing that this court should affirm the Order Denying Motion to Amend/Dissolve,

³ HRS § 586-9 provides:

§ 586-9 Modification of order. Upon application, notice to all parties, and hearing, the court may modify the terms of an existing order for protection. The court may deny, without hearing, a motion to dismiss or to modify the terms of an existing order for protection if the motion, on its face, does not allege facts sufficient to establish a material change in the circumstances of the parties since the issuance or last modification of the order.

as well as (2) C.T.'s April 30, 2025 Motion to Strike and for Sanctions (**Motion to Strike**), requesting, *inter alia*, that the court strike the Default Response. To the extent that the Response to Default can be construed as a motion, it is denied. The Motion to Strike is also denied.

For the reasons set forth above, the Family Court's October 30, 2024 Order Denying Motion to Amend/Dissolve is affirmed.

DATED: Honolulu, Hawai'i, October 8, 2026.

On the briefs:

C.T., Respondent-Appellant,
self-represented

/s/ Karen T. Nakasone
Chief Judge

/s/ Katherine G. Leonard
Associate Judge

/s/ Kimberly T. Guidry
Associate Judge