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NO. CAAP-25-0000543

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAIʻI

D.W., Plaintiff-Appellant,
v.
J.W., Defendant-Appellee.

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(CASE NO. 1DV201006485)

SUMMARY DISPOSITION ORDER

(By: Hiraoka, Presiding Judge, Guidry and Gluck, JJ.)

Plaintiff-Appellant D.W. (**Husband**) appeals from the Family Court of the First Circuit's (**Family Court**) Divorce Decree, and "Decision And Order Following Trial" (**Decision and Order**), both entered July 15, 2025.[1] Husband presents three points of error: (1) "[t]he final division of the marital estate violates [Hawaiʻi Revised Statutes (**HRS**)] § 580-47 because the family court created vast inequities without identifying any 'equitable considerations'"; (2) "[t]he family court's alimony award of $201,958 is not 'just and equitable' because the family court failed to consider [Husband's] monthly child support obligations and ignored the realities of his financial situation"; and (3) "[t]he final division and distribution of

[1] The Honorable Natasha R. Shaw presided.

the marital estate gave [Husband] property interests and due process required the family court to give him notice and an opportunity to be heard before it offset his equalization payment and redistributed his [real] property." Upon careful review of the record and the briefs submitted, and having given due consideration to the arguments and issues raised, we affirm in part and vacate in part the Family Court's July 15, 2025 Decision and Order and Divorce Decree and remand for further proceedings.

On July 15, 2025, following a three-day trial (which concluded on March 17, 2025), the Family Court entered its Decision and Order and Divorce Decree. Relevant to this appeal, the Divorce Decree awarded self-represented Defendant-Appellee J.W. (**Wife**) sole legal custody of both children and the parties' marital home (**Marital Home**). The Divorce Decree ordered Husband to pay $611.00 per month in child support. Because the Family Court awarded Wife the Marital Home, while awarding Husband a lower-value condominium (**Condo**), it ordered Wife to pay Husband $120,500.99 to equalize the parties' property distribution.

The Family Court also awarded spousal support. The Family Court calculated that Husband had $10,495.00 in gross monthly income and $4,885.05 in monthly living expenses. The Family Court therefore found that Husband had $5,609.95 in monthly surplus income, and that it was fair, just, and equitable to award spousal support totaling three years of Husband's surplus (that is, $5,609.95 for thirty-six months, or a total of $201,958.20). Notably, the $4,885.05 in monthly expenses did not include the $611.00 per month in child support ordered by the Family Court.

The Family Court offset Wife's $120,500.99 equalization payment to Husband against the spousal support award, leaving Husband owing $81,457.21 in spousal support.

To satisfy that balance, the Family Court ordered a vacant neighbor island property (the **Lot**) — valued at $80,000.00 — transferred to Wife, with Husband to pay Wife an additional $1,457.21 in cash.

Husband filed his Notice of Appeal on July 31, 2025. On August 18, 2025, Husband filed "Plaintiff [Husband]'s Motion to Stay the Execution of Decision and Order following Trial, filed July 15, 2025 [Dkt.289], Pending Appeal, and for Supersedeas Bond" (**Motion to Stay**) (brackets in original). Husband requested a stay of the Decision and Order: "1) to swap homes . . . ; 2) to transfer title and/or deed of the Marital Home to [Wife]; 3) to transfer ownership of the [Condo] and/or mortgage to [Husband]; 4) to transfer title and/or deed of the [Lot] to [Wife]; and [5]) to transfer the ordered cash amounts to [Wife] from [Husband's] bank accounts." In response, Wife filed "Defendant's Motion to Enforce the Divorce Decree and Award of Attorney's Fees and Costs" on October 3, 2025 (**Motion to Enforce**).

On September 8, 2025, the Family Court entered its 68-page Findings of Fact and Conclusions of Law (**FOFs/COLs**), which largely reiterates the findings in its Decision and Order.

On November 10, 2025, the Family Court entered its Order Granting in Part and Denying in Part Husband's Motion to Stay and Wife's Motion to Enforce.[2] The Family Court stayed the transfer of title of the parties' real properties, including the Lot; however, the Family Court ordered Husband to vacate the Marital Home so Wife could take possession, and ordered Husband to occupy and assume the expenses of the Condo. Because of this partial stay, the Family Court recalculated Husband's interim

[2] The Honorable Maria F. Penn presided over the Motion to Stay hearing on October 8, 2025.

child support obligation and ordered him to pay $2,656.00 per month, retroactive to August 1, 2025.

(1) Husband's first point of error is that the Family Court erred when it awarded Wife the Marital Home. He contends that the Family Court deviated from the partnership model without adequately identifying equitable considerations. This argument is without merit.

HRS § 580-47(a) (Supp. 2025) authorizes the Family Court, after granting divorce, to enter orders that are "just and equitable" in finally dividing and distributing the parties' estate. In doing so, the Family Court must consider, among other things, "the relative abilities of the parties, the condition in which each party will be left by the divorce, the burdens imposed upon either party for the benefit of the children . . . and all other circumstances." HRS § 580-47(a). The Family Court has wide discretion in dividing marital partnership property, and its ultimate division is reviewed for abuse of discretion. See Kakinami v. Kakinami, 127 Hawaiʻi 126, 136, 276 P.3d 695, 705 (2012) ("[W]e will not disturb the family court's decision on appeal unless the family court disregarded rules or principles of law or practice to the substantial detriment of a party litigant and its decision clearly exceeded the bounds of reason." (quoting Fisher v. Fisher, 111 Hawaiʻi 41, 46, 137 P.3d 355, 360 (2006)) (block quote formatting omitted)). Under Hawaiʻi's Partnership Model:

> the family court [shall] first find all of the facts necessary for categorization of the properties and assignment of the relevant net market values. Second, the court must identify any equitable considerations justifying deviation from an equal distribution. Third, the court must decide whether or not there will be a deviation, and in its fourth step, the court decides the extent of any deviation.

Gordon v. Gordon, 135 Hawaiʻi 340, 350, 350 P.3d 1008, 1018 (2015) (cleaned up). "[W]hether facts present valid and

relevant considerations authorizing a deviation from the partnership model division is a question of law that this court reviews under the right/wrong standard of appellate review." Id. at 348, 350 P.3d at 1016.

Relying on Hamilton v. Hamilton, 138 Hawaiʻi 185, 204-205, 378 P.3d 901, 920-921 (2016), Husband argues the Family Court was required to identify the equitable considerations justifying deviation from an equal distribution and that its purported "after-the-fact justification" was insufficient. Here, the Family Court identified valid and relevant considerations supporting its decision to award Wife the Marital Home. The Decision and Order found Wife's testimony credible. The Family Court further found that the Condo was not suitable for Wife and the Children because of one child's disabilities. In its FOFs, the Family Court likewise found that the Marital Home was "better suited . . . to secure and protect" the child. The Family Court also considered Wife's future financial circumstances, noting that the Marital Home has no mortgage and no electricity bill due to the solar panels on the roof. These considerations directly relate to Wife's post-divorce circumstances and the burdens associated with caring for the child with disabilities, both of which HRS § 580-47(a) require the Family Court to consider.

Here, unlike in Hamilton, the Family Court identified the equitable considerations supporting deviation when it distributed the parties' property. See id. Accordingly, the Family Court did not abuse its discretion in awarding Wife the Marital Home.

(2) Husband's second point of error is that the Family Court abused its discretion in failing to account for his child-support obligation when determining his ability to pay spousal support. He argues that the Family Court "ignored [Husband's]

ability to meet his own projected needs over three years after the divorce." Relying on the Family Court's later interim child support award of $2,656.00, Husband argues that the correct calculation for his monthly surplus is $2,953.95 rather than $5,609.95.

HRS § 580-47(a) authorizes the Family Court to award spousal support as "just and equitable" and requires consideration of, among other factors, the parties' financial resources and needs, custodial and child-support responsibilities, and the supporting spouse's ability to meet his or her own needs while providing support. "There is no fixed rule for determining the amount of property to be awarded each spouse in a divorce action other than as set forth in HRS § 580-47." Au-Hoy v. Au-Hoy, 60 Haw. 354, 357, 590 P.2d 80, 82 (1979).

The record supports the Family Court's determination that Wife is entitled to spousal support based on the parties' twenty-eight-year marriage, Wife's reduced earning capacity and caregiving responsibilities, the parties' respective financial circumstances, Wife's lifetime continuing responsibility and care for the child with disabilities, and Wife's debt incurred due to Husband's failure to provide financial support during the divorce proceedings. Nevertheless, it appears that the Family Court did not expressly consider Husband's child support obligations in ordering spousal support. See HRS § 580-47(a) ("[T]he court, in ordering spousal support and maintenance, shall consider the following factors: . . . (10) Custodial and child support responsibilities; (11) Ability of the party from whom support and maintenance is sought to meet the party's own needs while meeting the needs of the party seeking support and maintenance[.]" (formatting altered)). We therefore vacate the award of spousal support and remand for the Family Court's

reconsideration of this award in accordance with HRS § 580-47. To be clear, we do not hold that spousal support must be reduced by $21,996.00 ($611.00 x 36 months), $2,656.00 per month, or any other amount; we hold only that the Family Court must specifically consider Husband's child support obligation under HRS §§ 580-47(a)(10) and (a)(11) in calculating his spousal support obligation. See Jacoby v. Jacoby, 150 Hawaiʻi 158, 166, 498 P.3d 689, 697 (2021).

The Family Court awarded the Lot to Wife to offset spousal support owed by Husband. Because we vacate the award of spousal support, we also vacate the Family Court's award of the Lot to Wife. As such, we need not reach Husband's third point of error.

Accordingly, the spousal support award is vacated and remanded for reconsideration of Husband's child support obligation pursuant to HRS §§ 580-47(a)(10) and (a)(11). We also vacate the Lot transfer from the July 15, 2025 Decision and Order and Divorce Decree because it was used to satisfy part of Husband's spousal support obligation.

For the foregoing reasons, we affirm in part and vacate in part the Family Court of the First Circuit's July 15, 2025 Divorce Decree and Decision and Order and remand for further proceedings consistent with this Summary Disposition Order.

Dated: Honolulu, Hawaiʻi, October 29, 2026.

On the briefs:

Benjamin E. Lowenthal,
for Plaintiff-Appellant.

J.W.,
Self-represented
Defendant-Appellee.

/s/ Keith K. Hiraoka
Presiding Judge

/s/ Kimberly T. Guidry
Associate Judge

/s/ Daniel M. Gluck
Associate Judge