

**Electronically Filed
Intermediate Court of Appeals
CAAP-25-0000635
20-OCT-2026
08:33 AM
Dkt. 75 SO**

NO. CAAP-25-0000635

IN THE INTERMEDIATE COURT OF APPEALS

OF THE STATE OF HAWAII

F.S., Plaintiff-Appellee,
v.
M.S., Defendant-Appellant.

APPEAL FROM THE FAMILY COURT OF THE SECOND CIRCUIT
(CASE NO. 2DV151000316)

SUMMARY DISPOSITION ORDER

(By: Wadsworth, Presiding Judge, McCullen and Gluck, JJ.)

This appeal arises from divorce proceedings spanning over eleven years. Defendant-Appellant M.S. (**Mother**) and Plaintiff-Appellee F.S. (**Father**) divorced on July 7, 2016. They have one child together (**Child**).

Mother filed a notice of appeal on September 17, 2025 from the September 9, 2025 "Amended Order Granting in Part and Denying in Part Plaintiff's Motion to Enforce Court Orders and for Sanctions and Denying Defendant's Motion to Request Financial Evaluation Due to Change of Circumstances and Motion to Set Aside Order" (the **Order**)¹ entered by the Family Court of

¹ The Order (which, for clarity, is also referred to as the **September 9, 2025 Order** herein) superseded a nearly identical order entered on August 18, 2025. Both orders were entered by the Honorable James R. Rouse.

the Second Circuit (**Family Court**). The Order finally resolved a series of motions, the first of which was filed on September 27, 2024, which largely focused on the employment of (and payments to) a Parent Coordinator.

Upon careful review of the record on appeal and the briefs submitted, and having given due consideration to the arguments advanced and the issues raised, we affirm the Order in part, vacate the Order in part, and remand for further proceedings.

Background: The July 7, 2016 Judgment Granting Divorce and Awarding Child Custody (**Divorce Decree**) provided in relevant part that if Mother and Father could not agree on a time-sharing custody plan, the parties would submit the issue to a Parent Coordinator. On May 24, 2017, the parties agreed to Dr. Robert Simon (**Dr. Simon**) as the Parent Coordinator. The parties agreed to cooperate with Dr. Simon's "engagement and retention procedures"; they further agreed that Dr. Simon would perform services as set forth in the Divorce Decree and services within his discretion that he deemed were in Child's best interests. The parties also agreed to pay Dr. Simon in "equal portions."

In August 2024, Dr. Simon informed the parties that he would be stepping down as Parent Coordinator. On September 27, 2024, Father moved for post-decree relief regarding the Parent Coordinator (**Father's Parent Coordinator Motion**). Father requested that the Family Court (1) order Mother to cooperate and "meaningfully engage" with Father and the Parent Coordinator; (2) order appointment of a new Parent Coordinator; (3) order the new Parent Coordinator to address Father's concerns; (4) order Mother to pay Father's attorney's fees and costs for having to file the motion; and (5) hold Mother in

contempt of court. On December 10, 2024, the Family Court largely granted Father's Parent Coordinator Motion but took under advisement Father's request to hold Mother in contempt of court (**First Parent Coordinator Order**). The Family Court appointed Dr. Lori Love as the new Parent Coordinator and ordered Mother to "meaningfully engage" with Father and the Parent Coordinator "regarding custody, visitation and parenting, and any other issues related to [Child]'s best interests."²

That same day, Mother moved the Family Court to reconsider its First Parent Coordinator Order based on improper service of Father's Parent Coordinator Motion. On January 7, 2025, Mother filed a notice of appeal from the First Parent Coordinator Order (**January 2025 Notice of Appeal**). Two hours later, though, the Family Court granted Mother's motion for reconsideration and scheduled a status hearing for February 3, 2025.³

At the February 3, 2025 hearing, the Family Court concluded that Mother had not been properly served with Father's Parent Coordinator Motion and continued the case until March 17, 2025 to allow personal service of the motion on Mother. Mother was personally served with Father's Parent Coordinator Motion on February 5, 2025.

At the March 17, 2025 hearing, the Family Court orally ruled that Mother's January 2025 Notice of Appeal divested the Family Court of jurisdiction.⁴ The Family Court therefore

² The Honorable James R. Rouse entered the First Parent Coordinator Order.

³ The Honorable James R. Rouse entered the order granting Mother's motion for reconsideration.

⁴ The Honorable Lance D. Collins presided over the March 17, 2025 hearing.

vacated the order granting Mother's motion for reconsideration of the First Parent Coordinator Order. The Family Court then "independently" granted the relief sought in Father's Parent Coordinator Motion but took under advisement Father's request to hold Mother in contempt of court, and set a review hearing for June 30, 2025. The Family Court instructed Father's counsel to submit a declaration on attorney's fees and costs. Father's counsel did so, and on April 15, 2025, the Family Court entered a written order awarding Father attorney's fees and costs in the amount of \$9,139.70 (**Fees and Costs Order**).⁵

On April 22, 2025, the Family Court entered two written orders, memorializing the oral rulings from the March 17, 2025 hearing:⁶

1. **Second Parent Coordinator Order:** the Family Court granted Father's motion for post-decree relief, ordering:
 - a. The appointment of Dr. Lori Love as the new Parent Coordinator;
 - b. Mother to cooperate with the new Parent Coordinator; and
 - c. Prohibitions on certain conduct by Mother.

The Family Court took under advisement Father's request to hold Mother in contempt of court; and

2. **Order Vacating Grant of Reconsideration:** the Family Court vacated the order granting Mother's motion for reconsideration of the First Parent Coordinator Order.

⁵ The Honorable Lance D. Collins entered the Fees and Costs Order.

⁶ The Family Court entered a third written order as well, but it is not relevant to the instant appeal. The Honorable Lance D. Collins entered the three written orders on April 22, 2025.

On June 20, 2025, Father moved for enforcement of several prior court orders – including the Fees and Costs Order and the Second Parent Coordinator Order – and for sanctions against Mother (**Father's Enforcement Motion**). Father's Enforcement Motion requested, inter alia, "that [Mother's] portion of the retainer still owed to the appointed parenting coordinator be paid via offset against [Father's] child support owed to [Mother]."

On June 26, 2025, Mother filed a motion requesting a "financial evaluation due to [a] change in circumstance[s]," and further requesting that the Family Court set aside both the Fees and Costs Order and the Second Parent Coordinator Order (**Mother's Motion for Financial Evaluation**). Mother requested that the Parent Coordinator's services be terminated because, in relevant part, Mother could not afford the Parent Coordinator's retainer or fees. In the alternative, Mother requested that the Family Court appoint a mediator who offers services "at reduced or no cost."

Pursuant to the Family Court's instruction, Mother filed a supplemental declaration on July 16, 2025 attaching documentation in support of Mother's Motion for Financial Evaluation. Father filed a declaration in response on July 25, 2025 (**Father's Declaration**). Hearings on Father's Enforcement Motion and Mother's Motion for Financial Evaluation took place on June 30, 2025 and July 28, 2025. These were not evidentiary hearings. At the July 28, 2025 hearing, Mother claimed that she had not reviewed Father's Declaration because Father filed it "Friday late and [she] was with [her] daughter at a gathering Friday, Saturday, and Sunday."

The Family Court subsequently entered the Order (again, the September 9, 2025 Order from which Mother appeals),

which (1) terminated Father's child support obligation to offset the amounts Father paid to cover Mother's share of the Parent Coordinator's costs until the amounts owed were satisfied; (2) ordered Mother to cooperate with the Parent Coordinator; (3) denied Father's request to hold Mother in contempt of court; and (4) denied Mother's Motion for Financial Evaluation.

On September 17, 2025, Mother filed this appeal. On September 29, 2025, Mother requested entry of findings of fact (**FoFs**) and conclusions of law (**CoLs**), and the Family Court ordered the parties to enter proposed FoFs and CoLs by October 20, 2025. Mother filed proposed FoFs and CoLs on October 20, 2025. On October 23, 2025, Father requested an extension until October 28, 2025. The Family Court granted the request for an extension on October 24, 2025 (**Extension Order**). Mother moved for reconsideration of the Extension Order, and the Family Court denied the motion. Father filed proposed FoFs and CoLs on October 28, 2025 and the Family Court entered its FoFs and CoLs on October 29, 2025 (**10/29/25 FoF/CoL**).⁷

On appeal, Mother claims the Family Court erred by:

1. Entering the Order Vacating Grant of Reconsideration;
2. Entering the Fees and Costs Order, the Second Parent Coordinator Order, and the September 9, 2025 Order, because:
 - a. the Family Court lacked authority to appoint a Parent Coordinator absent consent of both parties;
 - b. Father's motions contained no evidence; and

⁷ The Honorable James R. Rouse entered the Extension Order and the 10/29/25 FoF/CoL.

- c. The Family Court erred in granting attorney's fees to Father.
3. Denying Mother's Motion for Financial Evaluation;
 4. Terminating Father's child support obligation to offset the amounts that Father paid for the Parent Coordinator;
 5. Denying Mother's alleged request to strike Father's Declaration for untimeliness; and
 6. Entering the Extension Order without allowing Mother to respond to Father's request for an extension, denying Mother's motion to reconsider the Extension Order, and untimely filing the 10/29/25 FoF/CoL under Rule 10(f) of the Hawai'i Rules of Appellate Procedure (**HRAP**).

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 Mother's arguments below. In short, we affirm the Family Court's orders as to points 1, 2, 5, and 6 listed above. We vacate the September 9, 2025 Order regarding 3 (denial of Mother's Motion for Financial Evaluation) and 4 (termination of child support) in part, as explained more fully below.

(1) Mother challenges the Family Court's Order Vacating Grant of Reconsideration. However, we lack jurisdiction over this order. This order – vacating a previous order granting a motion for reconsideration – was a final order: it left nothing to be decided, and was thus appealable as a post-decree order. See Ditto v. McCurdy, 103 Hawai'i 153, 157, 80 P.3d 974, 978 (2003) ("A post-judgment order is an appealable final order under [Hawai'i Revised Statutes (**HRS**)] § 641-1(a) if the order ends the proceedings, leaving nothing further to be

accomplished. Correlatively, an order is not final if the rights of a party involved remain undetermined or if the matter is retained for further action." (internal citation omitted)). Mother did not challenge this order until her September 17, 2025 appeal. Her challenge is therefore untimely. See HRAP Rule 4(a)(1) ("When a civil appeal is permitted by law, the notice of appeal shall be filed within 30 days after entry of the judgment or appealable order.").

(2) (a-b) Mother next challenges the Second Parent Coordinator Order. We have jurisdiction over this challenge because the Second Parent Coordinator Order was not "final" until the Family Court denied the request to find Mother in contempt (thus finally resolving all issues) in the September 9, 2025 Order, and because Mother's appeal from that Order was timely.

Mother contends that the Second Parent Coordinator Order is erroneous because the Family Court had no authority to appoint a new Parent Coordinator without the parties' agreement. She further argues the Family Court lacked evidence to support the appointment of a Parent Coordinator. These arguments are without merit. The Divorce Decree provided as follows:

The parties shall mutually agree to the appointment of two (2) parent coordinators ("P.C."), one in California and one in Hawaii, the costs to be shared equally by the parties. The P.C. in California shall address all issues that arise when [Child] is in California. The P.C. in Hawaii shall address all issues that arise when [Child] is in Hawaii. The P.C.s may communicate with each other, as necessary. In the event the parties are unable to agree who the P.C.'s shall be, each party shall submit at least one name to the Court, who shall make the decision.

The parties subsequently stipulated to the use of a single Parent Coordinator — Dr. Simon — but that "[a]ll terms of the Divorce Decree not inconsistent herewith shall remain in full force and effect." In other words, Mother stipulated to the use

of a single Parent Coordinator and further stipulated that the remaining provisions of the Divorce Decree – which included a process for appointment of a Parent Coordinator if the parties could not agree – would remain in effect. Thus, the legal authority for the Family Court's appointment of the Parent Coordinator is the Divorce Decree itself, as carried forward by the parties' stipulation. Mother makes no argument that the Family Court or Father failed to follow this process. Accordingly, her argument that the Family Court's appointment of the Parent Coordinator was improper is without merit.

(2) (c) Mother challenges the Family Court's award of attorney's fees. However, the Fees and Costs Order was a final order – with nothing left to be decided – and Mother did not file a timely appeal from that order. As such, we lack jurisdiction to consider it. See Ditto, 103 Hawai'i at 157, 80 P.3d at 978. Similarly, Mother's Motion for Financial Evaluation (filed on June 26, 2025) requested the Family Court to set aside the award of attorney's fees. This portion of Mother's Motion for Financial Evaluation, however, was simply an untimely motion for reconsideration under Rule 59(e) of the Hawai'i Family Court Rules. We lack jurisdiction to consider it. See HRAP Rule 4(a)(3) (requiring a "timely" motion for reconsideration to extend the time to file a notice of appeal).

Other portions of Mother's Motion for Financial Evaluation that were resolved in the September 9, 2025 Order are timely challenged. We now turn to those arguments.

(3) Mother contends that the Family Court abused its discretion in denying her Motion for Financial Evaluation, and we conclude that the Family Court erred in several respects. We

vacate paragraph 3 of the Order⁸ and the 10/29/25 FoF/CoL, and we remand to the Family Court.

In ruling on Mother's Motion for Financial Evaluation, the Family Court did not hold an evidentiary hearing. Yet the Family Court still found that "[Mother's] representations at the hearing on July 28, 2025 on, and in her pleadings regarding[,] how she incurred her significant debts are not credible." (Emphasis added.) The Family Court similarly referred to "her testimony at the July 28, 2025 hearing" and found that "[Mother's] representations are not credible" regarding her financial status.

Argument is not evidence. See, e.g., L.K. v. K.K., 318 A.3d 243, 262 (Conn. App. 2024) ("It is well known that arguments of counsel are not evidence[.] That rule applies equally to the statements and arguments of parties who appear in a self-represented capacity. . . . [A]rguments of a pro se litigant are not proof." (cleaned up)); Arnold v. Arnold, 889 So. 2d 215, 216 (Fla. Dist. Ct. App. 2004) ("Unsworn statements cannot serve as the basis for a trial court's factual determinations."). The Family Court erred in making factual

⁸ Paragraph 3 of the Order provides:

[Mother's] REQUESTS. [Mother's] requests in her motion including, but not limited to, requests that (i) the Court conduct a financial evaluation to determine whether parties have the ability to pay Dr. Love's parenting coordinator fees, (ii) alternatively, the Court order the parties to participate in mediation or Alternative Dispute Resolution instead of working with a parenting coordinator, and (iii) that the Court set a further evidentiary hearing regarding whether the parenting coordinator services should be terminated are denied in their entirety. The Court finds that [Mother] acted in bad faith by refusing to involve the parenting coordinator despite multiple orders compelling her to do so and using the child as a weapon to the detriment of [Child] and her relationship with [Father].

findings regarding Mother's "testimony" at the various hearings, including the July 28, 2025 hearing, because there was no testimony to be considered. The Family Court similarly erred in making credibility determinations based on Mother's arguments.

The Family Court also found that, "[d]uring the same period, [Mother] continued acting contrary to [Child's] best interest." It is not clear what time period the Family Court references here. Indeed, while the 10/29/25 FoF/CoL do refer to some of the materials submitted by the parties in 2025 – which included declarations and exhibits – the 2025 FOFs also repeatedly refer to FOFs and COLs from 2020 and 2021, when the Family Court had received testimony and made credibility determinations. As such, it is unclear whether the Family Court made new factual findings or simply repeating four- or five-year-old findings.

Accordingly, we vacate paragraph 3 of the Order and the 10/29/25 FoF/CoL, and remand for further proceedings.

(4) Mother argues that the Family Court improperly modified Father's child support obligation because the relevant statute only permits review and modification of child support every three years, and the party seeking a modification must show a "change in circumstances." Mother contends that Father failed to show a change in circumstances justifying a modification, and that even if Father demonstrated a change in circumstances, the Family Court failed to use the 2024 Hawai'i Child Support Guidelines (**Guidelines**) when it modified Father's child support obligation. Mother further argues that even if the Family Court properly utilized the Guidelines, Father failed to establish "exceptional circumstances warrant[ing] departure."

"The family court possesses wide discretion, and its decisions are evaluated under the 'abuse of discretion'

standard." KP v. EM, 157 Hawai'i 35, 60, 575 P.3d 668, 693 (2025). "A family court's findings of fact are reviewed under the 'clearly erroneous' standard." Id.

HRS § 571-52.5 (2018) provides that "[w]hen the court establishes or modifies the amount of child support required to be paid by a parent, the court shall use the guidelines established under section 576D-7, except when exceptional circumstances warrant departure." When determining if an exceptional circumstance exists to deviate from a child support amount calculated using the Hawai'i Child Support Guidelines Worksheet (**Worksheet**), the Hawai'i Supreme Court has held that "exceptional circumstances do not excuse a failure to use the Guidelines Worksheet." P.O. v. J.S., 139 Hawai'i 434, 443, 393 P.3d 986, 995 (2017). The Court concluded:

The Guidelines likewise permit "deviation" based on exceptional circumstances, and the Guidelines' requirement that the family court make factual findings on the "amount of support that would have been required as calculated using [the Guidelines Worksheet]" further demonstrates that even in cases of exceptional circumstances, the court must first calculate a support amount utilizing the Guidelines Worksheet.

Id. at 444, 393 P.3d at 996 (citation omitted).

The record on appeal does not reflect that the Family Court used the Worksheet when terminating Father's child support obligation for an indefinite period. The Family Court's stated intent – to offset Father having covered Mother's share of the Parent Coordinator's fees – did not exempt the Family Court from completing a Worksheet before terminating Father's child support obligation. See D.L. v. C.L., NO. CAAP-19-0000023, 2020 WL 888335, at *9 (Haw. App. Feb. 24, 2020) (mem. op.). This is especially the case here, where the Family Court did not simply offset Mother's share of the fees, but terminated child support (subject to possibly revisiting the issue at an undefined future

date). Thus, the Family Court abused its discretion. Paragraph 6 of the Order is vacated.⁹ On remand, the Family Court shall recalculate child support nunc pro tunc to July 28, 2025.

(5) Mother contends that the Family Court abused its discretion by failing to strike Father's Declaration because it prejudiced her and "it is impossible to tell what weight the [Family Court] gave the late filing as no findings related to this were issued by the Court." Because she was self-represented at the time, Mother asserts that her representation at the July 28, 2025 hearing should be liberally construed as a motion to strike Father's Declaration.

This argument is without merit. Mother's statement at the July 28, 2025 hearing was as follows:

[Mother]: Your Honor, I did want to inform the Court that I did not have an opportunity to read [Father's counsel]'s reply given that I was at a family gathering this weekend. He filed it Friday late and I was with my daughter at a gathering Friday, Saturday, and Sunday.

[The Family Court]: Okay. So noted for the record.

(Emphasis added.) We do not construe Mother's statement as a motion to strike Father's Declaration. Because Mother failed to

⁹ Paragraph 6 of the Order provides:

RETAINER FOR PARENTING COORDINATOR/SUSPENSION OF CHILD SUPPORT. It is undisputed that child support owed by [Father] to [Mother] for the minor child was previously established at \$2,229 per month[.] The Court finds that the payment by [Father] of other expenses to pay [Mother's] portion of the retainer for the Parenting Coordinator, Dr. Lori Love of \$7,500, and amounts owed by [Mother] to [Father] as reimbursement for attorney's fees and costs ordered by the Court as identified above are exceptional circumstances justifying deviation from the payment of child support pending satisfaction of offsets of these amounts. Based on [the] foregoing, effective July 28, 2025, [Father's] child support obligation to [Mother] is terminated pending further Court order. Once these offsets have been satisfied, the parties shall notify the Court regarding potential re-establishment of child support.

object to Father's Declaration below, her argument is waived on appeal. See Hawaii Ventures, LLC v. Otaka, Inc., 114 Hawai'i 438, 500, 164 P.3d 696, 758 (2007).

(6) Mother contends the Family Court erroneously granted Father's request for an extension in its Extension Order, or at least should have granted her request for attorney's fees "in having to prepare timely findings and in having to move for reconsideration of the [Family Court's] unilateral grant of Father's extension request." Mother fails to demonstrate how the Extension Order prejudiced her. Without support showing the "advantage" Father obtained by seeing Mother's proposed FoFs and CoLs before filing his own, Mother's argument is without merit.

In light of the foregoing, the Family Court's September 9, 2025 Order is affirmed in part and vacated in part. The October 29, 2025 Findings of Fact and Conclusions of Law are vacated. The case is remanded for further proceedings consistent with this summary disposition order.

Dated: Honolulu, Hawai'i, October 20, 2026.

On the briefs:

Kai Lawrence,
for Defendant-Appellant.

/s/ Clyde J. Wadsworth
Presiding Judge

Frederick J. Arensmeyer,
for Plaintiff-Appellee.

/s/ Sonja M.P. McCullen
Associate Judge

/s/ Daniel M. Gluck
Associate Judge