

NOT FOR PUBLICATION

NO. 26360

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAI'I

IN THE INTEREST OF JANE DOE,
Born on June 24, 1999

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-S NO. 02-08233)

AMENDED SUMMARY DISPOSITION ORDER
(By: Burns, C.J., Watanabe and Lim, JJ.)

Appellant (Mother) is the mother of seven children. None of the children are in Mother's custody. This appeal pertains to the termination of Mother's parental rights with respect to a female child, Jane Doe, born on June 24, 1999.

On July 30, 2000, Mother gave birth to a female child and tested positive for amphetamines and methamphetamines. Mother gave up this female child for adoption.

On November 17, 2001, Mother gave birth to a male child (the male child) and tested positive for methamphetamines. On February 6, 2002, the family court awarded foster custody of the male child to the State of Hawai'i Department of Human Services (DHS).

On March 14, 2002, after the Honolulu Police Department took protective custody of Jane Doe, DHS assumed temporary foster custody of her. On March 15, 2002, Mother agreed that DHS should have foster custody of Jane Doe. On March 20, 2002, DHS placed

NOT FOR PUBLICATION

Jane Doe in the same foster home where the male child was residing.

On April 25, 2002, DHS petitioned for foster custody of Jane Doe. At the hearing on May 6, 2002, the parties stipulated to DHS having foster custody of Jane Doe and to the April 25, 2002 service plan.

On December 30, 2002, DHS moved for permanent custody of Jane Doe and the male child. At a hearing on January 7, 2003, the court terminated Mother's parental rights pertaining to the male child. At a trial on April 15, 2003, the court allowed Mother more time to demonstrate, with the assistance of a service plan, her ability to provide Jane Doe with a safe family home in the reasonably foreseeable future.

On June 2, 2003, and July 4, 2003, Mother tested positive for methamphetamines. On July 24, 2003, Mother was discharged from the Hina Mauka program for noncompliance.

On September 15, 2003, Mother entered the approximately eighteen-month to two-year residential substance abuse treatment program at the Sand Island Treatment Center.

On September 16, 2003, Mother gave birth to a female child. Both Mother and the female child tested positive for methamphetamines.

On September 29, 2003, after a trial, the court entered (1) its Order Awarding Permanent Custody of Jane Doe to DHS, and

NOT FOR PUBLICATION

(2) Letters of Permanent Custody. On October 17, 2003, Mother filed a motion for reconsideration asking for "additional time to demonstrate that she will be able to provide a safe home in the near future[.]" On December 31, 2003, the court entered its Orders Concerning Child Protective Act denying Mother's motion for reconsideration.

On January 27, 2004, Mother filed a notice of appeal. On March 2, 2004, the family court entered its Findings of Fact and Conclusions of Law. This appeal was assigned to this court on July 30, 2004.

Mother challenges the findings that she "is not presently willing and able to provide [Jane Doe] with a safe family home, even with the assistance of a service plan" and that "[i]t is not reasonably foreseeable that Mother will become willing and able to provide [Jane Doe] with a safe family home, even with the assistance of a service plan[.]"

In accordance with Hawai'i Rules of Appellate Procedure Rule 35, and after carefully reviewing the record and the briefs submitted by the parties, and duly considering and analyzing the law relevant to the arguments and issues raised by the parties,

NOT FOR PUBLICATION

IT IS HEREBY ORDERED that the Order Awarding Permanent Custody and Letters of Permanent Custody each filed on September 29, 2003 in the Family Court of the First Circuit are affirmed.

DATED: Honolulu, Hawai'i, February 22, 2005.

On the briefs:

Herbert Y. Hamada
for Mother-Appellant

Chief Judge

Patrick A. Pascual and
Mary Anne Magnier,
Deputy Attorneys General,
for Department of Human
Services-Appellee

Associate Judge

Jeffry R. Buchli,
Guardian Ad Litem for Minor

Associate Judge