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EM. SIMMONDO
CLERK, APPELLATE COURTS
STATE OF HAWAII

NO. 25383 and 25439

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

NO. 25383

HAYLEY KA'IULANI CERIT, Plaintiff-Appellant, v. ISHAK CERIT,
Defendant-Appellee, and MARVIN W. ACKLIN, Custody Guardian Ad
Litem-Appellee
(FC-D No. 01-1-2951)

AND

NO. 25439

ISHAK CERIT, Plaintiff-Appellee, v. HAYLEY KA'IULANI CERIT,
Defendant-Appellant
(FC-M No. 02-1-0933)

APPEAL FROM THE CIRCUIT OF THE FIRST CIRCUIT

SUMMARY DISPOSITION ORDER

(By: Watanabe, Acting C.J., Foley and Fujise, JJ.)

Appellant Hayley Ka'iulani Cerit ("Appellant"), appeals from orders in two family court actions.^{1/} Appeal No. 25383 involves her divorce action and Appeal No. 25439 involves Appellee Ishak Cerit's ("Appellee") action to enforce a Turkish divorce judgment. In the divorce action, she appeals from the order granting Appellee's motion to dismiss and the order requiring payment of the Custody Guardian Ad Litem's ("CGAL") costs and fees. In the enforcement action, she appeals from the

^{1/} The Honorable Bode Uale presided over both actions.

order granting Appellee's motion to enforce the Turkish divorce judgment, specifically regarding child custody, and the order denying her motion to stay.^{2/} These appeals were consolidated and were assigned to this court on July 2, 2003. We resolve Appellant's points of error as follows:

Regarding Appellant's points of error one through five, challenging the court's dismissal of the divorce action and recognition and enforcement of the Turkish judgment, we conclude, after exhaustive review of the record and the relevant law, that all orders and corresponding findings of fact and conclusions of law are well supported by the evidence and the law in the record. The Uniform Child Custody Jurisdiction Act, principles of comity, and ample case law authorized the family court rulings at issue and, contrary to Appellant's allegations, we discern no evidence of fraud, public policy violation, or lack of due process. See Hawaii Revised Statutes (HRS) §583-1 to -26 (1993); Allen v. Allen, 64 Haw. 553, 645 P.2d 300 (1982); Griffith v. Griffith, 60 Haw. 567, 592 P.2d 826 (1979); Hollinrake v. Hollinrake, 40 Haw. 397 (Hawai'i Terr. 1953); In re Marriage of Malak, 182 Cal.App.3d 1018 (1986); Plas v. Superior Court, 155 Cal.App.3d 1008 (1984);

^{2/} Appellant Hayley Ka'iulani Cerit's notice of appeal also claims to appeal from the following orders, but she waives them by failing to raise them in her points on appeal: Order Re: Hearing of CGAL Costs & Fees; Order Denying Non-Hearing of Dennis E. W. O'Connor's Motion for Reconsideration of the Order Re: Hearing of CGAL Costs and Fees; Order Dismissing Defendant Ishak Cerit's Hague Convention Petition Without Prejudice; and Order Denying Plaintiff's Non-Hearing Motion for Reconsideration Filed September 27, 2002. Hawai'i Rules of Appellate Procedure (HRAP), Rule 28(b)(4) (2000).

Greschler v. Greschler, 51 N.Y.2d 368 (1980); Litvaitis v. Litvaitis, 162 Conn. 540 (1972).

Regarding Appellant's sixth and final point of error, Appellant's claim that the court erred in ordering that she must pay the CGAL's professional fees for time spent preparing for and attending his deposition, is moot because the deposition was not actually held and, in light of the disposition of this case, will not be held. See In re Thomas, 73 Haw. 223, 832 P.2d 253 (1992); Wong v. Board of Regents, University of Hawaii, 62 Haw. 391, 616 P.2d 201 (1980). We also refuse to disturb the court's award of costs for lost business resulting from Appellant noticing and cancelling the CGAL's deposition and for the CGAL's attorney's fees for his attorney's preparation and representation at the June 28, 2002 hearing on the fee/cost issue, because Appellant has failed to furnish this court with the June 28, 2002 hearing transcript^{3/} and because the order was not an abuse of discretion.^{4/} Id. See HRS § 571-46(8) (1993).

Therefore,

IT IS HEREBY ORDERED that the June 28, 2002 order awarding the CGAL's costs, September 19, 2002 order of dismissal for lack of subject matter jurisdiction, October 2, 2002 order

^{3/} HRAP 10(b); In re Doe, 102 Hawai'i 75, 73 P.3d 29, n.13 (2003); Bettencourt v. Bettencourt, 80 Hawai'i 225, 909 P.2d 553 (1995).

^{4/} In re Custody of Landau, 233 Ill.App.3d 853 (1992). See also In re Doe, 77 Hawai'i 109, 883 P.2d 30 (1994); Fujimoto v. Au, 95 Haw. 116, 19 P.3d 699 (2001); First Hawaiian Bank v. Smith, 52 Haw. 591, 483 P.2d 185 (1971).

NOT FOR PUBLICATION

granting Appellee's post-decree relief motion for enforcement and October 2, 2002 order denying Appellant's motion to stay are affirmed.

DATED: Honolulu, Hawai'i, June 30, 2005

On the briefs:

Dennis E.W. O'Connor and
Jeffrey K. Hester,
for Plaintiff-Appellant/
Defendant-Appellant.



Acting Chief Judge

Chunmay Chang,
for Defendant-Appellee/
Plaintiff-Appellee.



Associate Judge



Associate Judge