

NO. 26797

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

CRISTINA C. ANCHETA, Petitioner-Appellee, v.
ARNALDO P. ANCHETA, Respondent-Appellant

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-DA NO. 04-1-1418)

SUMMARY DISPOSITION ORDER

(By: Burns, C.J., Watanabe and Nakamura, JJ.)

Petitioner-Appellee Cristina C. Ancheta (Cristina) and Respondent-Appellant Arnaldo P. Ancheta (Arnaldo) are married. Their daughter (Daughter) was born in April of 2001. In response to the petition filed on July 20, 2004 by Cristina, Judge Lillian Ramirez-Uy entered a Temporary Restraining Order expiring on October 18, 2004.

On August 23, 2004, after an evidentiary hearing, Judge Nancy Ryan entered an Order For Protection (OFP) expiring on February 23, 2006¹. This OFP also awarded temporary legal and

¹ Hawaii Revised Statutes § 586-5.5 (Supp. 2004) states as follows:

Protective order; additional orders. (a) If, after hearing all relevant evidence, the court finds that the respondent has failed to show cause why the [temporary restraining] order should not be continued and that a protective order is necessary to prevent domestic abuse or a recurrence of abuse, the court may order that a protective order be issued for a further fixed reasonable period as the court deems appropriate.

The protective order may include all orders stated in the temporary restraining order and may provide for further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation and custody with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention services. . . .

(b) A protective order may be extended for such further fixed reasonable period as the court deems appropriate. Upon application by a person or agency capable of petitioning under section 586-3, the court shall hold a hearing to determine whether the protective order should be extended. In making a determination, the court shall consider evidence of abuse and threats of abuse that occurred prior to the initial restraining order and whether good cause exists to extend the protective order.

The extended protective order may include all orders stated in the preceding restraining order and may provide such further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders

EUGENE L. SABADO
CLERK, APPELLATE COURTS
STATE OF HAWAII

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physical custody of Daughter to Cristina.

On September 3, 2004, Arnaldo filed a Notice of Appeal from the OFP. On November 1, 2004, the court entered findings of fact and conclusions of law. This case was assigned to this court on June 7, 2005.

Arnaldo's opening brief asserts, in relevant part, as follows:

STATEMENT OF POINTS OF ERROR

(1) Based solely on the contradictory, uncorroborated and disputed testimony of [Cristina] the trial court found that there was sufficient evidence to support a determination that [Cristina] is at risk of imminent future harm and therefore a continuing protective order is necessary to prevent a recurrence of domestic abuse.

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(2) The court permitted and virtually encouraged the repeated misconduct of [Cristina's] counsel who offered and then referred to inadmissible evidence and conducted himself abusively and unprofessionally.

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QUESTION PRESENTED

Whether the trial court erred in determining that the evidence presented was sufficient to determine that [Cristina] at risk of imminent future harm, and therefore a continuing protective order is necessary to prevent a recurrence of domestic abuse.

(Record citations omitted.)

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

establishing temporary visitation and custody with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention services. The court may terminate the extended protective order at any time with the mutual consent of the parties.

NOT FOR PUBLICATION

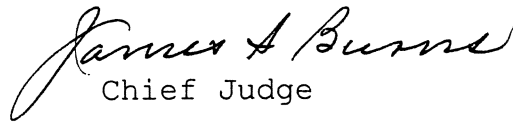
law relevant to the arguments and issues raised by the parties,


IT IS HEREBY ORDERED that the August 23, 2004 Order For Protection is affirmed.

DATED: Honolulu, Hawai'i, September 28, 2005.

On the briefs:

Eric A. Seitz
for Respondent-Appellant


Chief Judge


Associate Judge


Associate Judge