

NOT FOR PUBLICATION

NO. 26165

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

PAMELA DEE ROSS, Plaintiff-Appellee, v.
JEFFREY H. ROSS, Defendant-Appellant

E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAII

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FILED

APPEAL FROM THE CIRCUIT COURT OF THE FIRST CIRCUIT
(FC-D No. 97202)

SUMMARY DISPOSITION ORDER

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

Defendant-Appellant Jeffery H. Ross (Jeffrey) appeals from the "Judgment Re: Motion and Affidavit for Post-Decree Relief Filed 10/24/02[,]" entered by the Family Court of the First Circuit^{1/} on September 25, 2003. The Judgment awarded Plaintiff-Appellee Pamela Dee Ross (Pamela): (1) child support arrearage of \$4,118, plus statutory interest at ten percent per year, to be paid directly to Pamela upon the sale of residential property jointly owned by Jeffrey and Pamela; and (2) rental arrearage of \$100 per month for the period from October 24, 1992 to April 24, 2003, plus statutory interest at ten percent per year. The Judgment also denied other requests made by Pamela in her post-divorce-decree motion and Jeffrey's request for sanctions against Pamela under Hawai'i Family Court Rules Rule 11.

On appeal, Jeffrey argues that the Family Court of the First Circuit (the family court) erroneously failed to apply the

^{1/} The Honorable Nancy Ryan entered the Judgment.

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legal doctrines of laches, equitable estoppel, and/or waiver in awarding Pamela past-due rent for ten years. He also argues that the family court abused its discretion in failing to take into consideration "all other circumstances of the case[,]" as required by Hawaii Revised Statutes § 580-47 (Supp. 2005),^{2/} in awarding Pamela past-due rent.

Based on our review of the record and the briefs submitted by the parties, and having considered the applicable statutes, case law, and standard of review, we disagree with

^{2/} Hawaii Revised Statutes § 580-47 (Supp. 2005) provides now, as it did during the proceedings below, in relevant part, as follows:

Support orders; division of property. (a) Upon granting a divorce, or thereafter if, in addition to the powers granted in subsections (c) and (d), jurisdiction of those matters is reserved under the decree by agreement of both parties or by order of court after finding that good cause exists, the court may make any further orders as shall appear just and equitable (1) compelling the parties or either of them to provide for the support, maintenance, and education of the children of the parties; (2) compelling either party to provide for the support and maintenance of the other party; (3) finally dividing and distributing the estate of the parties, real, personal, or mixed, whether community, joint, or separate; and (4) allocating, as between the parties, the responsibility for the payment of the debts of the parties whether community, joint, or separate, and the attorney's fees, costs, and expenses incurred by each party by reason of the divorce. In making these further orders, the court shall take into consideration: the respective merits of the parties, 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 of the parties, and all other circumstances of the case.

(Emphasis added.)

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Jeffrey. Accordingly, we affirm the Judgment from which this appeal was taken.

DATED: Honolulu, Hawai'i, March 16, 2006.

On the briefs:

Roy F. Epstein
for defendant-appellant.

Frank T. Lockwood and
Jennifer A. Young
for plaintiff-appellee.

Bernice K. A. Watanabe
Daniel R. Foley
Alexander M. Jizinec