

NO. 27936

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

In the Interest of B. CHILDREN:  
C.A-A.B., C.L.B., E.B., G.A-L.B., F.B., and G.P.B.

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT  
(FC-S NO. 05-10592)

ORDER DISMISSING MOTHER-APPELLANT'S APPEAL AND  
ALLOWING FATHER-APPELLANT'S APPEAL TO PROCEED  
(By: Burns, C.J., Lim and Foley, JJ.)

Upon review of (1) Mother-Appellant's July 26, 2006 statement of jurisdiction, (2) Father-Appellant's July 27, 2006 statement of jurisdiction, and (3) the record, it appears that we lack jurisdiction over Mother-Appellant's appeal from the March 16, 2006 order that awarded Petitioner-Appellee Department Human Services (Appellee DHS) with foster custody over five of their minor children. Under HRS § 571-54 (1993), "appeals in family court cases, as in other civil cases, may be taken only from (1) a final judgment, order, or decree, . . . or (2) a certified interlocutory order." In re Doe, 96 Hawai'i 272, 283, 30 P.3d 878, 889 (2001) (citations omitted). "By the plain language of the statute, a party desiring to appeal from an order entered in a proceeding governed by HRS § 571-54 is required to file a motion for reconsideration." In re Doe Children, 94

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Hawai'i 485, 486, 17 P.3d 217, 218 (2001). "Thus, there is no appealable order until the family court resolves the motion for reconsideration." Id. Although 2006 Hawai'i Sessions Laws Act 3 (Act 3) amended HRS § 571-54 by repealing the requirement for a motion for reconsideration under these circumstances, the family court entered the March 16, 2006 order before the July 1, 2006 effective date of Act 3, and, thus, the amendment under Act 3 does not apply to the March 16, 2006 order. See HRS § 1-3 (1993) ("No law has any retrospective operation, unless otherwise expressed or obviously intended.").

Father-Appellant filed an April 5, 2006 motion for reconsideration within twenty days after entry of the March 16, 2006 order, as HRS § 571-54 (1993) required, and, thus, the March 16, 2006 order was appealable for Father-Appellant. However, Mother-Appellant did not file a motion for reconsideration, and, thus, Mother-Appellant failed to perfect her right to assert an appeal under HRS § 571-54 (1993). Therefore, the March 16, 2006 order is not appealable by Mother-Appellant. Absent an appealable order for Mother-Appellant, we lack jurisdiction over Mother-Appellant's appeal. Accordingly,

IT IS HEREBY ORDERED that Mother-Appellant's appeal is dismissed for lack of appellate jurisdiction. The intermediate court of appeals has appellate jurisdiction over Father-

Appellant's appeal, and, thus, Father-Appellant shall proceed with his appeal in this case.

DATED: Honolulu, Hawai'i, August 8, 2006.

  
Chief Judge

  
Associate Judge

  
Associate Judge