

NOT FOR PUBLICATION IN WEST'S HAWAI'I REPORTS AND PACIFIC REPORTER

NO. 27519

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

IN THE INTEREST OF DOE CHILDREN:  
I.T., T.T. (#1), T.T. (#2), and J.T.

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT  
(FC-S NO. 03-09061)

K. HANAKADO  
CLERK, APPELLATE COURTS  
STATE OF HAWAI'I

2006 DEC 13 AM 9:46

FILED

SUMMARY DISPOSITION ORDER

(By: Lim, Presiding Judge, Nakamura and Fujise, JJ.)

Mother appeals the August 2, 2005 order of the Family Court of the First Circuit (family court)<sup>1</sup> that awarded permanent custody of four of her children to the Department of Human Services (the DHS). Mother also appeals the family court's September 14, 2005 denial of her motion for reconsideration of the permanent custody order.<sup>2</sup>

After a meticulous review of the record and the briefs submitted by the parties, and giving careful consideration to the arguments advanced and the issues raised by the parties, we dispose of Mother's points of error on appeal as follows:

1. The family court did not clearly err in its conclusions that Mother, who is mildly mentally retarded, is not

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<sup>1</sup> The Honorable Paul T. Murakami presided.

<sup>2</sup> Mother does not specify or argue error with particular respect to the Family Court of the First Circuit's (family court) September 14, 2005 denial of her motion for reconsideration of the permanent custody order. Hence, we will not review and thus affirm the family court's September 14, 2005 order. See Hawai'i Rules of Appellate Procedure (HRAP) Rule 28(b)(4) (2005); Wright v. Chatman, 2 Haw. App. 74, 76, 625 P.2d 1060, 1062 (1981); HRAP Rule 28(b)(7) (2005); Weinberg v. Mauch, 78 Hawai'i 40, 49, 890 P.2d 277, 286 (1995); In re Wai'ola O Moloka'i, Inc., 103 Hawai'i 401, 438 n.33, 83 P.3d 664, 701 n.33 (2004).

presently willing and able to provide her special needs children with a safe family home, even with the assistance of a service plan, and that it is not reasonably foreseeable that Mother will become so, even with the assistance of a service plan, within a reasonable period of time, because there was substantial evidence before the family court to support its conclusions. In re Doe, 95 Hawai'i 183, 190, 20 P.3d 616, 623 (2001).

2. The family court did not clearly err in its finding that the DHS exerted reasonable and active efforts to effect Mother's reunification with her children, because there was substantial evidence before the family court to support its finding. Id.

3. The family court did not clearly err in its conclusion that the permanent plans for adoption are in the best interests of the children, because there was substantial evidence before the family court to support its conclusion, id.; including substantial evidence that the children are "in the home[s] of family or . . . person[s] who ha[ve] become as family" and who are "[willing [and] []able to adopt the child[ren,]" such that the family court had to "presume that it is in the best interests of the child[ren] to be adopted[.]" Hawaii Revised Statutes § 587-73(b)(3)(A) (Supp. 2005).

4. Even assuming, *arguendo*, that Mother had a right to effective assistance of counsel in this termination of parental rights case, her claim of ineffective assistance lacks merit

because, even under the most generous interpretation of the right, Mother has not met her burden to show "1) that there were specific errors or omissions reflecting counsel's lack of skill, judgment, or diligence; and 2) that such errors or omissions resulted in either the withdrawal or substantial impairment of a potentially meritorious defense." State v. Aplaca, 74 Haw. 54, 67, 837 P.2d 1298, 1305 (1992) (footnote and citations omitted).

Therefore,

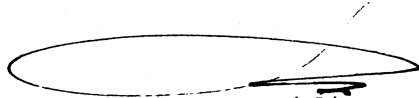
IT IS HEREBY ORDERED that the August 2, 2005 order awarding permanent custody and the September 14, 2005 denial of reconsideration are affirmed.

DATED: Honolulu, Hawai'i, December 13, 2006.

On the briefs:

Tae W. Kim,  
for Mother-Appellant.

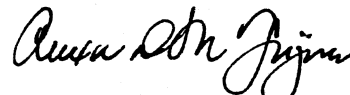
Jay K. Goss and  
Mary Anne Magnier,  
Deputy Attorneys General,  
State of Hawai'i,  
for Petitioner-Appellee.



Presiding Judge



Associate Judge



Associate Judge