

NO. 26924

IN THE INTERMEDIATE COURT OF APPEALS
OF THE STATE OF HAWAII

ROBERT VERN BOTTOM, Plaintiff-Appellee, v.
JUDITH LUCINDO BOTTOM, nka BUTLER, Defendant-Appellant

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-D NO. 95-4704)

SUMMARY DISPOSITION ORDER

(By: Watanabe, Presiding Judge, Foley and Fujise, JJ.)

In this divorce case, Defendant-Appellant Judith Lucindo Bottom, nka Judith Lucindo Butler (Judith) appeals from the September 30, 2004 Order Re: Plaintiff's Motion for Post-Decree Relief (Post-Decree Order) entered by the Family Court of the First Circuit (family court).¹

In her single point on appeal, Judith contends that the family court abused its discretion when it awarded her ex-husband, Plaintiff-Appellee Robert Vern Bottom, II (Robert), half of his attorney's fees and costs, amounting to \$10,161.65, pursuant to Hawaii Revised Statutes (HRS) § 580-47(f) (2006).² Specifically, Judith argues that (1) based on the lack of billing

¹ The Honorable William K. Wallace, III presided.

² Hawaii Revised Statutes § 580-47(f) (2006) states:

(f) Attorney's fees and costs. The court hearing any motion for orders either revising an order for the custody, support, maintenance, and education of the children of the parties, or an order for the support and maintenance of one party by the other, or a motion for an order to enforce any such order or any order made under subsection (a) of this section, may make such orders requiring either party to pay or contribute to the payment of the attorney's fees, costs, and expenses of the other party relating to such motion and hearing as shall appear just and equitable after consideration of the respective merits of the parties, the relative abilities of the parties, the economic condition of each party at the time of the hearing, the burdens imposed upon either party for the benefit of the children of the parties, and all other circumstances of the case.

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CLERK, APPELLATE COURTS
STATE OF HAWAII

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documentation, it is uncertain whether the fees were fair and reasonable, and (2) the award of fees was not just and equitable. Accordingly, she requests that the family court's September 13, 2004 Decision and Order, and Order Re: Plaintiff's Motion for Post-Decree Relief, filed September 30, 2004, be vacated and remanded.

We dispose of Judith's single issue on appeal as follows:

1. Judith failed to establish that the family court abused its discretion in awarding Robert half of the attorney's fees and costs he requested. The family court's award of one-half of the requested amount contains an inherent determination that the resulting award was fair and reasonable. Robert's counsel attested to both the hours she expended, as well as the rate at which she billed. Ordinarily, documentation is necessary for a review of attorney's fees and costs awards. Owens v. Owens, 104 Hawai'i 292, 311, 88 P.3d 664, 683 (App. 2004). However, here, Robert offered to provide more detail, but Judith did not request any, nor did she argue that the amount requested was not justified either by the number of hours claimed or the hourly rate charged.

2. While the family court did not explicitly apply the HRS § 580-47(f) factors, where (1) Robert was the prevailing party, (2) Judith chose to not earn any income at the time of hearing, and (3) the family court found fault with Judith's compliance with its orders, we cannot say the court abused its discretion in awarding Robert half of his attorney's fees and costs under HRS § 580-47(f).

Therefore,

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS AND PACIFIC REPORTER

IT IS HEREBY ORDERED that the September 30, 2004 Order
Re: Plaintiff's Motion for Post-Decree Relief of the Family Court
of the First Circuit is affirmed.

DATED: Honolulu, Hawai'i, October 18, 2007.

On the briefs:

Pablo P. Quiban
(Evangelista & Quiban),
for Defendant-Appellant.

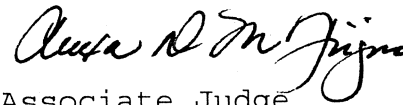
Chunmay Chang,
for Plaintiff-Appellee.



Presiding Judge



Associate Judge



Associate Judge