

NO. 24776

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

IN RE JOHN DOE
Born on July 19, 1993
(No. 24776) (FC-S No. 99-06297))

IN RE JANE DOE
Born on March 14, 1987
(No. 24778) (FC-S No. 88-01105))

IN RE JOHN DOE
Born on February 27, 1989
(No. 24779) (FC-S No. 91-02102)

IN RE JOHN DOE
Born on July 7, 1984
(No. 24790) (FC-S No. 88-01037))

IN RE JOHN DOE
Born on June 29, 1991
(No. 24791) (FC-S No. 91-02108))

APPEALS FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-S NOS. 99-06297, 88-01105, 91-02102, 88-01037 & 91-02108)

SUMMARY DISPOSITION ORDER
(By: Moon, C.J., Levinson, Nakayama,
Ramil, and Acoba, JJ.)

Mother-Appellant (Mother) appeals from the "Orders Awarding Permanent Custody" entered on October 24, 2001 and the "Orders Concerning Child Protective Act" entered on December 10,

2001 by the family court of the first circuit¹ (the court), awarding permanent custody of John Doe, Born on July 19, 1993, Jane Doe, Born on March 14, 1987, John Doe, Born on February 27, 1989, John Doe, born on July 7, 1984, and John Doe, born on June 29, 1991 (collectively, the children), to Department of Human Services-Appellee. On appeal, Mother argues that (1) the court erred and was clearly erroneous in finding and concluding that Mother would not become able, in a reasonable amount of time, to provide the children with a safe family home, even with the assistance of a service plan, (2) the reasonable time limit in HRS § 587-73 is unconstitutionally vague, and (3) the court abused its discretion in denying Mother's motion for reconsideration.

In accordance with Hawai'i Rules of Appellate Procedure Rule 35, and after carefully reviewing the record and the briefs submitted by the parties, duly considering and analyzing the law relevant to the arguments and issues raised by the parties, and having heard oral argument, we hold that (1) the court's findings of fact were not clearly erroneous, see In re Doe, 89 Hawai'i 477, 487, 974 P.2d 1067, 1077 (App. 1999) ("A finding of fact is clearly erroneous when (1) the record lacks substantial evidence in support of the finding, or (2) despite substantial evidence in support of the finding, the appellate court is nonetheless left with a definite and firm conviction that a mistake has been

¹ The Honorable Linda K.C. Luke presided over this matter.

made.” (Quoting Hirono v. Peabody, 81 Hawai‘i 230, 232, 915 P.2d 704, 706 (1996).)), and the court was not clearly erroneous in concluding that Mother would not become able to provide the children with a safe family home, even with the assistance of a service plan, see id. at 486, 974 P.2d at 1076 (“[A] conclusion that presents mixed questions of fact and law is reviewed under the clearly erroneous standard because the court’s conclusions are dependent upon the facts and circumstances of each individual case.” (Internal quotation marks and citations omitted.)), (2) the reasonable time limit in HRS § 587-73 is not vague, inasmuch as it establishes a two-year period to forecast when Mother would be able to provide a safe home, see id. at 492, 974 P.2d at 1082 (stating that “in HRS § 587-73(a)(2) . . . the three-year period defines the limits of that ‘reasonable period of time’ for which a parent’s willingness and ability to provide a safe family home must be forecasted[,] . . . which must be taken into account in predicting when a safe home will become available for the purpose of determining whether parental rights should be terminated”), (3) Mother presented no discernable argument on the question of whether the court erred in denying the motion for reconsideration, see State v. Moore, 82 Hawai‘i 202, 206 n.1, 921 P.2d 122, 126 n.1 (1996) (explaining that appellate courts have “prerogative to disregard” a claim unsupported by “discernable argument”); Bank of Hawai‘i v. Shaw, 83 Hawai‘i 50, 52, 924 P.2d 544, 546 (App. 1996) (“We will disregard a point of error if the

appeal fails to present discernable argument on the alleged error." (Citation omitted.)). Therefore,

IT IS HEREBY ORDERED that the court's October 24, 2001 orders awarding permanent custody and the December 10, 2001 orders concerning child protective act are affirmed.

DATED: Honolulu, Hawai'i, December 20, 2002.

Joseph A. Dubiel for
Mother-Appellant.

Susan Barr Brandon
(David McCormick and
Mary Anne Magnier, on the
brief), Deputy Attorneys
General, for Department
of Human Services-Appellee.