

SUPREME COURT OF THE STATE OF HAWAI‘I

Lopez v. State

133 Haw. 311 (2014) · No. SCWC-11-0000512 · Decided February 12, 2014

SUMMARY

The Supreme Court of Hawai‘i considers whether a Child Support Enforcement Agency lien recorded in 1997 has priority over an attorney’s lien arising from a later personal-injury action. The court holds that the child-support lien takes priority under Hawai‘i Revised Statutes § 576D-10.5 and that Hawai‘i Revised Statutes § 507-81 does not provide the attorney with a superior or independent property interest in the judgment. The court affirms the Intermediate Court of Appeals.

CASE DETAILS

|                       |                                                                                                                                                                                                                                               |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the State of Hawai‘i                                                                                                                                                                                                         |
| WRITING FOR THE COURT | Mark E. Recktenwald, Chief Justice; Paula A. Nakayama, Justice; Richard W. Pollack, Justice; Randal K. O. Lee, Circuit Judge, sitting in place of McKenna, Justice, recused                                                                   |
| JURISDICTION          | Hawaii                                                                                                                                                                                                                                        |
| DECIDED               | February 12, 2014                                                                                                                                                                                                                             |
| DOCKET                | SCWC-11-0000512                                                                                                                                                                                                                               |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                      |
| PROCEDURAL POSTURE    | Petition for writ of certiorari reviewing the Intermediate Court of Appeals' affirmance of a circuit court order denying Lopez's motion for issuance of a writ of execution or mandamus concerning payment of a \$9,000 arbitration judgment. |
| STANDARD OF REVIEW    | Statutory interpretation is reviewed de novo.                                                                                                                                                                                                 |
| PRECEDENTIAL VALUE    | Published precedential opinion                                                                                                                                                                                                                |
| PARTIES               | Patrick Lopez v. State of Hawai‘i                                                                                                                                                                                                             |

TOPICS

- child support
- family law
- statutory interpretation
- remedies
- civil procedure

PRACTICE AREAS

- family law
- civil procedure
- remedies
- statutory interpretation

## QUESTIONS PRESENTED

1. Whether HRS § 576D-10.5 was ambiguous concerning the priority and reach of a recorded CSEA child-support lien.
2. Whether HRS § 507-81 creates a superior or independent attorney property interest in a judgment that takes priority over a previously recorded CSEA lien.
3. Whether applying the statutory lien-priority scheme violated due process or required priority to be determined by equitable and public-policy considerations.

## HOLDINGS

1. A CSEA lien recorded before an attorney's lien arises has priority over the attorney's lien, except as otherwise provided for tax liens.
2. HRS § 507-81 creates a lien securing the attorney's fees; it does not create a superior or independent ownership interest that is immune from a prior recorded lien.
3. HRS § 576D-10.5 is not ambiguous, and equitable or public-policy considerations cannot override the statutes' express lien-priority rules.
4. The application of the lien statutes did not violate procedural or substantive due process.

## KEY QUOTATIONS

*“HRS § 507-81 does not provide a superior or independent right for an attorney’s property interest in a judgment over a prior recorded CSEA lien.” (133 Haw. at 311)*

*“Accordingly, a lien merely creates a right to another’s property; it does not divide the property into distinct, independently-owned properties.” (133 Haw. at 320-21)*

*“Therefore, HRS § 507-81 does not create a superior or independent right for an attorney, but provides the attorney the same right to the judgment as the client.” (133 Haw. at 321)*

## FACTUAL BACKGROUND

In 1997, the Child Support Enforcement Agency recorded a lien against Patrick Lopez's real and personal property based on delinquent child-support obligations. In 2008, Lopez entered a contingency-fee agreement with Eric A. Seitz's law firm, which later obtained a \$9,000 arbitration award for Lopez in an unrelated personal-injury action filed in 2009. Because the CSEA lien exceeded the award and predated the attorney's lien, the parties disputed which lien had priority.

## PROCEDURAL HISTORY

The circuit court ruled that a Child Support Enforcement Agency lien recorded in 1997 had priority over Lopez's attorney's lien arising from a subsequently filed personal-injury action and denied Lopez's motion. The Intermediate Court of Appeals affirmed. The Hawai‘i Supreme Court granted review and affirmed the ICA's December 12, 2012 judgment.

## DISPOSITION

affirmed

#### CASES CITED

- *Lopez v. State*, No. CAAP-11-0000512, 2012 WL 5520465 (Haw. App. Nov. 13, 2012)
- *Haole v. State*, 111 Hawai‘i 144, 140 P.3d 377 (2006)
- *Kaleikini v. Yoshioka*, 128 Hawai‘i 53, 67, 283 P.3d 60, 74 (2012)
- *First Ins. Co. of Hawai‘i v. A&B Props., Inc.*, 126 Hawai‘i 406, 414, 271 P.3d 1165, 1173 (2012)
- *State v. Wheeler*, 121 Hawai‘i 383, 390, 219 P.3d 1170, 1177 (2009)
- *Banaitis v. Commissioner of Internal Revenue*, 340 F.3d 1074 (9th Cir. 2003)
- *Commissioner of Internal Revenue v. Banks*, 543 U.S. 426 (2005)
- *Rockwood Water District v. Steve Smith Contracting, Inc.*, 80 Or. App. 136, 720 P.2d 1332 (1986)
- *Nicoletti v. Lizzoli*, 124 Cal. App. 3d 361, 368, 177 Cal. Rptr. 685 (1981)
- *In re Applications of Herrick*, 82 Hawai‘i 329, 349, 922 P.2d 942, 962 (1996)
- *State v. Klie*, 116 Hawai‘i 519, 525, 174 P.3d 358, 364 (2007)
- *State v. Sakamoto*, 101 Hawai‘i 409, 413, 70 P.3d 635, 639 (2003)
- *Ross v. Stouffer Hotel Co. Ltd., Inc.*, 76 Hawai‘i 454, 467, 879 P.2d 1037, 1050 (1994)
- *State v. Harada*, 98 Hawai‘i 18, 50, 41 P.3d 174, 206 (2002)
- *In re Marriage of Wageman*, 25 Kan. App. 2d 682, 968 P.2d 1114 (1998)
- *Eastmond v. Earl*, 912 P.2d 994 (Utah Ct. App. 1996)
- *Landry v. Roebuck*, 193 Mich. App. 431, 484 N.W.2d 402 (1992)
- *All Points Capital Corp. v. Architectural Metal Products, Inc.*, No. C 08-04394 VRW, 2010 WL 1610013 (N.D. Cal. Apr. 20, 2010)
- *Cetenko v. United California Bank*, 30 Cal. 3d 528, 179 Cal. Rptr. 902, 638 P.2d 1299 (1982)
- *Pangborn Plumbing Corp. v. Carruthers & Skiffington*, 97 Cal. App. 4th 1039, 119 Cal. Rptr. 2d 416 (2002)