

SUPREME COURT OF THE STATE OF HAWAI‘I

Tumaneng v. Tumaneng

138 Haw. 468 (2016) · No. SCWC-14-0000895 · Decided October 21, 2016

SUMMARY

The Hawai‘i Supreme Court held that a material change in circumstances is not required before a family court may modify a child custody order; the governing inquiry is the child’s best interests under HRS § 571-46. The court further held that the family court erred by excluding evidence of pre-decree domestic violence and other pre-decree evidence relevant to custody. The case was remanded for further proceedings, including consideration of the statutory rebuttable presumption concerning family violence.

CASE DETAILS

COURT	Supreme Court of the State of Hawai‘i
WRITING FOR THE COURT	Sabrina S. McKenna, J.; Mark E. Recktenwald, C.J.; Paula A. Nakayama, J.; Richard W. Pollack, J.; Michael D. Wilson, J.
JURISDICTION	Hawaii
DECIDED	October 21, 2016
DOCKET	SCWC-14-0000895
DISPOSITION	vacated
PROCEDURAL POSTURE	Mother sought review by certiorari of the Intermediate Court of Appeals' summary disposition affirming the family court's exclusion of pre-decree domestic-violence evidence in a post-decree child-custody proceeding.
STANDARD OF REVIEW	A trial court's determination that evidence is relevant under Hawai‘i Rules of Evidence Rule 401 is reviewed under the right/wrong standard.
PRECEDENTIAL VALUE	published, precedential opinion of the Supreme Court of the State of Hawai‘i
PARTIES	Brelie Gail Balon Tumaneng v. Brixon Andres Tumaneng

TOPICS

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PRACTICE AREAS

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QUESTIONS PRESENTED

1. Whether a material change in circumstances is required before a family court may consider the best interests of a child in modifying a custody order.
2. Whether pre-decree evidence of alleged domestic violence must be related to the post-decree change in circumstances to be relevant in a custody-modification proceeding.
3. Whether the family court was required to consider evidence of alleged family violence under Hawai‘i Revised Statutes § 571-46(9), notwithstanding that the prior custody arrangement arose from an uncontested divorce decree.

HOLDINGS

1. Under Hawai‘i Revised Statutes § 571-46, a material change in circumstances is not a prerequisite to considering modification of a child-custody order; the court must conduct a single inquiry focused on the best interests of the child.
2. Evidence predating the prior custody decree may be relevant and must be considered when it bears on whether modifying custody would serve the child's best interests; it need not be related to a material change in circumstances.
3. In every proceeding involving a dispute over child custody, the family court must address whether family violence has been committed by a parent and apply the statutory rebuttable presumption against placing the child in the perpetrator's custody when the court makes such a determination.

KEY QUOTATIONS

“Rather than [a] two-step analysis, there is a single inquiry which focuses on the best interests of the child.”
(at 2)

“Pursuant to HRS § 571-46, as construed in Waldecker, the family court was required to consider all evidence relevant to the issue of whether modification of the Decree would be in the best interests of the child.” (at 15)

“Therefore, in order to determine Son’s actual best interests as mandated by HRS § 571-46, the family court was required to address the specific and direct allegations of domestic violence in this case before making its custody determination.” (at 19)

FACTUAL BACKGROUND

The parties' son was born in 2006 and primarily lived with Mother before and during the parties' marriage. Their uncontested divorce decree awarded Mother temporary physical custody and Father permanent physical custody after his relocation to the United States. In a post-decree custody proceeding prompted by Father's planned relocation to Arizona, Mother sought to introduce evidence that Father had physically abused her in Japan before the decree; the family court excluded that evidence and awarded Father sole physical custody.

PROCEDURAL HISTORY

The Family Court of the First Circuit excluded evidence of alleged domestic violence occurring before the divorce decree, awarded Father sole physical custody, and denied Mother's motion for reconsideration. The ICA affirmed in a summary disposition order, reasoning that the pre-decree evidence had to relate to the material change in circumstances. The Hawai'i Supreme Court granted certiorari, vacated the family court and ICA orders, and remanded for further proceedings.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The case was remanded to the family court for further proceedings consistent with the opinion, including consideration of relevant pre-decree evidence and the allegations of family violence under HRS § 571-46.

CASES CITED

- Waldecker v. O'Scanlon, 137 Hawai'i 460, 375 P.3d 239 (2016)
- Nadeau v. Nadeau, 10 Haw. App. 111, 861 P.2d 754 (1993)
- State v. St. Clair, 101 Hawai'i 280, 67 P.3d 779 (2003)
- Doe v. Doe, 98 Hawai'i 144, 44 P.3d 1085 (2002)
- Tumaneng v. Tumaneng, No. CAAP-14-0000895 (App. Oct. 26, 2015) (SDO)