

INTERMEDIATE COURT OF APPEALS OF THE STATE OF HAWAI‘I

W.G. v. D.S.

W.G. v. D.S. · No. CAAP-XX-XXXXXXX · Decided November 25, 2025

SUMMARY

The Hawai‘i Intermediate Court of Appeals vacated a Family Court order awarding the father temporary sole physical and legal custody of the parties’ child. The court held that the Family Court failed to make sufficient findings of fact and conclusions of law, including an analysis of the statutory best-interest factors and the wishes of the child, to permit meaningful appellate review, and remanded for further proceedings.

CASE DETAILS

COURT	Intermediate Court of Appeals of the State of Hawai‘i
WRITING FOR THE COURT	Katherine G. Leonard, Presiding Judge; Clyde J. Wadsworth, Associate Judge; Kimberly T. Guidry, Associate Judge
JURISDICTION	Intermediate Court of Appeals of the State of Hawai‘i
DECIDED	November 25, 2025
DOCKET	CAAP-XX-XXXXXXX
DISPOSITION	vacated
PROCEDURAL POSTURE	Defendant-Appellant appealed from the Family Court of the Third Circuit's February 13, 2025 order awarding Plaintiff-Appellee temporary sole physical and legal custody of the minor child.
STANDARD OF REVIEW	The appellate court reviewed whether the Family Court entered findings of fact and conclusions of law sufficient to permit meaningful appellate review. Because the required findings were absent or inadequate, the appellate court could not conduct its own evidentiary analysis.
PRECEDENTIAL VALUE	nonprecedential
PARTIES	D.S. v. W.G.

TOPICS

- child custody
- family law procedure
- appellate procedure
- standard of review

PRACTICE AREAS

family law

child custody

appellate procedure

QUESTIONS PRESENTED

1. Whether the Family Court's custody order contained sufficient findings of fact and conclusions of law to permit meaningful appellate review.
2. Whether the Family Court was required to address the statutory best-interests factors under HRS § 571-46(a), including the wishes of a child of sufficient age and capacity to reason.
3. Whether the appellate court could independently assess the evidentiary basis for the custody order when the Family Court failed to make adequate findings.

HOLDINGS

1. The Family Court's custody order was inadequate because it did not provide sufficient findings of fact and conclusions of law explaining the evidentiary basis for the finding of extreme psychological abuse or the temporary custody award.
2. The Family Court was required to address the best-interests factors in HRS § 571-46(a), including the statutory consideration and due weight given to the wishes of a child of sufficient age and capacity to reason.
3. When the lower court fails to issue findings sufficient to enable meaningful appellate review, the appellate court may not conduct its own evidentiary analysis.

KEY QUOTATIONS

"The Family Court found that Mother's failure to comply with the reunification orders "constitute[d] extreme psychological abuse of the subject minor child," without describing any evidence supporting that conclusion." (at 5)

"when the lower court has failed to issue the requisite findings of fact to enable meaningful appellate review, it is not the function of the appellate court to conduct its own evidentiary analysis." (at 6)

FACTUAL BACKGROUND

Mother and Father were divorced in 2014, and Mother initially had sole legal and physical custody of their child. After Father sought post-decree custody relief and the Family Court ordered reunification therapy, Mother opposed and failed to comply with the reunification orders. The Family Court then found that Mother's noncompliance constituted extreme psychological abuse and awarded Father temporary sole legal and physical custody, without addressing the statutory best-interests factors or the fifteen-year-old child's asserted opposition to reunification therapy.

PROCEDURAL HISTORY

The parties were divorced in 2014, with Mother initially receiving sole legal and physical custody and Father receiving visitation. After prior custody and reunification proceedings, the Family Court found that Mother had

failed to comply with orders concerning reunification therapy and awarded Father temporary sole legal and physical custody. Mother appealed. The Intermediate Court of Appeals vacated the custody order because the Family Court failed to enter adequate findings of fact and conclusions of law and remanded for further proceedings.

DISPOSITION

vacated

REMAND INSTRUCTIONS

The February 13, 2025 Custody Order is vacated, and the case is remanded for further proceedings consistent with the Summary Disposition Order. The November 10, 2025 motion for retention of oral argument and all other pending motions were denied.

CASES CITED

- DS v. WG, No. CAAP-XX-XXXXXXX, 2023 WL 5037333, *1 (Haw. App. Aug. 8, 2023) (SDO)
- Morgan v. Planning Dep't, Cty. of Kauai, 104 Hawai'i 173, 180-81, 86 P.3d 982, 989-90 (2004)
- O'Connor v. Diocese of Honolulu, 77 Hawai'i 383, 386, 885 P.2d 361, 364 (1994)
- DL v. CL, 146 Hawai'i 328, 338, 463 P.3d 985, 995 (2020)
- In re Elaine Emma Short Revocable Living Tr. Agreement Dated July 17, 1984, 147 Hawai'i 456, 465, 475, 465 P.3d 908, 912, 922 (2020)
- Goo v. Arakawa, 132 Hawai'i 304, 317, 321 P.3d 655, 668 (2014)
- Sprint/United Mgmt. Co. v. Mendelsohn, 552 U.S. 379, 383-84 (2008)

OPINION

PER CURIAM.

NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS OR THE PACIFIC REPORTER
Electronically Filed Intermediate Court of Appeals CAAP-XX-XXXXXXX 25-NOV-2025 08:26 AM Dkt. 183 SO NO. CAAP-XX-XXXXXXX IN THE INTERMEDIATE COURT OF APPEALS OF THE STATE OF HAWAII#I W.G., Plaintiff-Appellee, v. D.S., Defendant-Appellant APPEAL FROM THE FAMILY COURT OF THE THIRD CIRCUIT HILO DIVISION (CASE NO. 3DV121000235) SUMMARY DISPOSITION ORDER (By: Leonard, Presiding Judge, and Wadsworth and Guidry, JJ.)

Defendant-Appellant D.S. (Mother), self-represented, appeals from the "Order on Hearing Held on February 13, 2025" (Custody Order) entered on February 13, 2025, by the Family Court of the Third Circuit (Family Court).1/ Pursuant to the Custody Order, the Family Court awarded temporary sole physical and legal custody of the minor child T.G. (Child) to Plaintiff-Appellee W.G.

(Father). On appeal, Mother appears to assert thirty-five points of error, many of which are duplicative and difficult to discern. In sum, Mother contends that the Family Court erred in entering the Custody Order, including by failing to allow the Child to testify, or to otherwise obtain her "consent," during custody proceedings.

After reviewing the record on appeal and the relevant legal authorities, and giving due consideration to the issues 1/ The Honorable Jeffrey W. Ng presided. NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS OR THE PACIFIC REPORTER raised and the arguments advanced by Mother,^{2/} we resolve her contentions as follows, and vacate.

I. Background Mother and Father were divorced pursuant to a Divorce Decree entered on June 5, 2014. They have one child, born in 2009. Mother was awarded legal and physical custody of the Child, and Father was awarded visitation rights.

On January 27, 2022, Mother obtained a temporary restraining order (TRO) against Father on behalf of herself and the Child. After conducting an evidentiary hearing, the Family Court dissolved the TRO, and Mother appealed.

On appeal, this court affirmed the Family Court's order dissolving the TRO. DS v. WG, No. CAAP-XX-XXXXXXX, 2023 WL 5037333, *1 (Haw. App. Aug. 8, 2023) (SDO). On August 3, 2022, Father filed a motion for post- decree relief, requesting that he be awarded legal and physical custody of the Child. Father alleged that "Mother has effectively cut the Father off from having visitation and contact," Father had not seen the Child in over six months, and the Child was educationally neglected.

The Family Court held evidentiary hearings on Father's motion on August 24, 2023, September 27, 2023, October 26, 2023, November 30, 2023, and May 29, 2024. On June 19, 2024, the Family Court issued an order concluding that it was "in the best interests of Child that Mother maintain sole legal and physical custody" of the Child, and also that it was "in [the Child]'s best interests to reestablish contact and reunify with Father."

The Family Court ordered the Child to engage in reunification therapy with an approved therapist, and stated "[a]ny action by either party to discourage and/or inhibit and/or to prevent the therapeutic reunification process... is not in [the Child's] best interests and may be considered a form of extremely [sic] 2/ On August 20, 2025, the appellate clerk issued a notice of default of answering brief to Father's counsel of record.

No answering brief has been filed. 2 NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS OR THE PACIFIC REPORTER psychological abuse." The order provided that the Child was to have visits with Father "as therapeutically recommended."

On September 16, 2024, Father filed a motion for post-decree relief, requesting that he be awarded temporary physical custody, with the parties to share legal custody, on the ground that Mother had refused to comply with the June 19, 2024 order requiring reunification therapy. Father submitted a letter from a reunification therapist stating that Mother first refused to respond to the therapist's emails, then responded by stating that she was refusing to discuss next steps in the reunification process.

On October 11, 2024, Mother submitted a motion in response to Father's motion for post-decree relief, which argued that the Child was opposed to, and should not be forced into, reunification therapy with Father.^{3/} On October 14, 2024, the Family Court issued an order to the Hawai'i Department of Human Services (DHS) stating that the court was concerned about Mother's failure to comply with its June 19, 2024 reunification order, and ordered DHS to investigate the matter and submit a report to the court.

After interviewing Father, Mother, and the Child, and reviewing a prior Child Welfare Services investigation, DHS filed a report on December 16, 2024 stating that it was "unable to make recommendations regarding reunification therapy or custody as there are no identified safety issues present."

On January 15, 2025, the Family Court entered an order finding that Mother's failure to comply with its June 19, 2024^{4/} order and her stated unwillingness to comply with that order in the future were not in the Child's best interests, and granted Father "temporary sole legal custody on any and all matters relating to the reunification process and therapy with the [Child]."

3/ On December 12, 2024, Mother also filed an "(Updated) Motion to Hear Minor,¹⁵ Does Not Consent to Reunification Therapy, HRS 577D," which attached an alleged statement from the Child stating that she did not consent to reunification therapy, and a letter from the Child's physician stating that the Child informed her that she did not consent to reunification therapy.

4/ The order mistakenly identified the court order entered on June 19, 2024, as entered on June 4, 2024. 3 NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS OR THE PACIFIC REPORTER At a February 13, 2025 status conference, Mother again stated her opposition to the court-ordered reunification therapy.

The Family Court entered the Custody Order, finding that Mother's failure to comply with its prior orders regarding the Child's reunification therapy with Father "constitute[s] extreme psychological abuse of the... [C]hild."

The court further found that it was in the Child's best interest that Father be awarded temporary sole legal and physical custody, and ordered Mother to immediately deliver the Child to Father. This appeal followed. II. Discussion The points of error (POEs) in Mother's opening brief fail to comply with Hawai'i Rules of Appellate Procedure Rule 28(b)(4), because they are not set forth in

numbered paragraphs, do not include references to where in the record the alleged errors occurred, and do not state where in the record Mother objected to the alleged errors.

Many of the POEs are also difficult to discern or fail to allege a legal or factual error by the Family Court.^{5/} Nevertheless, we have "consistently ^{5/} As best we can discern, Mother appears to contend that the Family Court erred: • by failing to allow the Child to testify at any of the hearings held in the case (POEs 1, 4, 29, and 33); • in the Custody Order, by ordering a change in custody without an evidentiary hearing (POE 2); • "when it decided a 'permanent plan' §587A-32, that the [Custody Order] marked the 'Termination of [Mother]/Sole Legal and Physical Custodial's [sic] parental rights'" (POE 3); • by proceeding without the Child's consent to the "permanent plan" (POE 5); • when it refused "to admit or hear piles of *LEGALLY ADMISSIBLE EVIDENCE [sic]," without specifying the evidence the Family Court refused to entertain (POE 6). • "when it refuses to apply laws to our case," without specifying the laws the court allegedly failed to apply (POE 8).

Mother's remaining points of error are either unintelligible or fail to allege a legal or factual error by the Family Court. Rather, they consist primarily of criticisms or negative characterizations of the purpose or consequences of the Custody Order. 4 NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS OR THE PACIFIC REPORTER adhered to the policy of affording litigants the opportunity 'to have their cases heard on the merits, where possible.'" *Morgan v. Planning Dep't, Cty. of Kauai*, 104 Hawai#i 173, 180-81, 86 P.3d 982, 989-90 (2004) (quoting *O'Connor v. Diocese of Honolulu*, 77 Hawai#i 383, 386, 885 P.2d 361, 364 (1994)).

Here, we are hindered from addressing the merits of Mother's appeal by the Family Court's failure to enter the requisite findings of fact and conclusions of law to enable meaningful appellate review. Hawai#i Family Court Rules (HFCR) Rule 52(a) (2022) provides that once a notice of appeal is filed in a family court proceeding, the court must enter findings of fact and conclusions of law, unless the court's written decision contains them.^{6/} See *DL v. CL*, 146 Hawai#i 328, 338, 463 P.3d 985, 995 (2020) (stating that "[t]he plain language of HFCR Rule 52(a)... requires a family court to enter findings of fact and conclusions of law after a notice of appeal is filed, unless it has previously entered a written decision containing findings of fact and conclusions of law.").

Here, the Custody Order states, in relevant part: 1. The Court finds that Mother's failure to comply with the Court's prior orders (June 19, 2024, Order Regarding Plaintiff's Motion for Post-Decree Relief Filed August 13, 2024, [sic] as Dkt. No. 573; and January 15, 2025, Order on Hearing Held on December 10, 2024, [sic] as Dkt. No. 632) regarding reunification between the Father and the subject minor child constitute extreme psychological abuse of the subject minor child.

2. The Court finds that it is in the subject minor child's best interest that [Father], be awarded temporary sole physical and legal custody of the... [Child]. 3. [Mother] is ordered to deliver the child to [Father] on February 13, 2025.... Paragraphs 1 and 2 appear to constitute the findings on

which the 6/ HFCR Rule 52(a) states, in relevant part: In all actions tried in the family court, the court may find the facts and state its conclusions of law thereon or may announce or write and file its decision and direct the entry of the appropriate judgment; except upon notice of appeal filed with the court, the court shall enter its findings of fact and conclusions of law where none have been entered, unless the written decision of the court contains findings of fact and conclusions of law.

(Emphasis added.) 5 NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS OR THE PACIFIC REPORTER Custody Order is based. No separate findings of fact and conclusions of law were entered by the Family Court following Mother's appeal.

In reviewing the Custody Order, we note the following deficiencies in the court's findings. The Family Court found that Mother's failure to comply with the reunification orders "constitute[d] extreme psychological abuse of the subject minor child," without describing any evidence supporting that conclusion.

The Family Court determined it was in the Child's best interest that Father be awarded temporary sole physical and legal custody without referring to or analyzing any of the "best interests of the child" factors and considerations set forth in HRS § 571-46(a).

Moreover, the Custody Order failed to address HRS § 571-46(a)(3), which states that "[i]f a child is of sufficient age and capacity to reason, so as to form an intelligent preference, the child's wishes as to custody shall be considered and be given due weight by the court."

Here, the Child was over fifteen years old at the time of the February 13, 2025 Custody Order, yet the order does not address Mother's claim that the Child did not consent to reunification therapy with Father. In *In re Elaine Emma Short Revocable Living Tr. Agreement Dated July 17, 1984*, 147 Hawai'i 456, 465 P.3d 908 (2020), the Hawai'i Supreme Court ruled that "when the lower court has failed to issue the requisite findings of fact to enable meaningful appellate review, it is not the function of the appellate court to conduct its own evidentiary analysis."

Id. at 465, 465 P.3d at 912 (citing *Goo v. Arakawa*, 132 Hawai'i 304, 317, 321 P.3d 655, 668 (2014) and *Sprint/United Mgmt. Co. v. Mendelsohn*, 552 U.S. 379, 383-84 (2008)). Here, we cannot discern the evidence relied upon by the Family Court, or the legal analysis it employed to make its "bests interests" determination.

Accordingly, we vacate the February 13, 2025 Custody Order. See *id.* at 475, 465 P.3d at 922. For the reasons discussed above, the "Order on Hearing Held on February 13, 2025," entered on February 13, 2025, by the Family Court of the Third Circuit, is vacated, and the case is 6 NOT FOR PUBLICATION IN WEST'S HAWAII REPORTS OR THE PACIFIC REPORTER remanded for further proceedings consistent with this Summary Disposition Order.

It is further ordered that the November 10, 2025 motion for retention of oral argument and all other pending motions are denied. DATED: Honolulu, Hawaii#i, November 25, 2025. On the brief: /s/ Katherine G. Leonard D.S., Presiding Judge Self-represented Defendant- Appellant. /s/ Clyde J. Wadsworth Associate Judge /s/ Kimberly T. Guidry Associate Judge 7