

**2024 Law Update
Additional Cases**

Case Name	Citation	Court	Relevant Facts	Holding
<i>In re K.R.</i>	153 Hawai'i 582, 542 P.3d 1277 (App. 2024)	ICA (unpub.)	FOC's rights terminated. FOC argued DHS did not make reasonable efforts to find him services while incarcerated, and it was a due process violation to discharge his counsel while he was incarcerated.	TPR affirmed. Substantial efforts supported reasonable efforts finding, even if no services provided while Father was incarcerated (Father was in-and-out of jail); no evidence FOC did not absent himself from CWS proceedings voluntarily. (Dates of incarceration not clear in the record)
<i>In re S.U.</i>	154 Hawai'i 39, 543 P.3d 1091 (App. 2024)	ICA (unpub.)	Child born drug-exposed, DHS took custody on release from hospital. At trial, DHS supervisor testified for the SW who drafted the reports (who was no longer with DHS). Parent's rights terminated.	TPR affirmed. By statute, Mother and Father had the right to cross-examine the SW, but DHS not required to call (former) SW in lieu of her supervisor. DHS informed all parties the supervisor would be testifying in lieu of the SW, and Mother/Father did not subpoena the SW or move to compel her testimony. Supervisor testifying as expert allowed to rely on hearsay (conversations w/ the SW) if it is the kind of information "reasonably relied upon by experts in the field of social work and child welfare."
<i>In re K.K.</i>	153 Hawai'i 580, 542 P.3d 1275 (App. 2024)	ICA (unpub.)	FOC incarcerated for approx. 1 year, and FOC did not get services or visits while in custody. While FOC incarcerated, DHS sent letters requesting contact, but FOC did not respond. At time of trial, Child had been in foster custody for 22 months, but FOC would be in residential treatment for 7-10 months to be clinically discharged. Child placed with RCGs in Michigan, but home was not licensed at the time of the TPR trial. GAL did not testify at trial. Parents rights terminated.	TPR affirmed. DHS provided reasonable efforts because FOC did not respond to attempts to call/contact him, and TPR not error because FOC's services would exceed 24-month maximum for a child to be in foster custody. GAL not required to testify in order to make a recommendation (GAL made recommendation in closing argument). Not error for Court to find permanent plan in child's best interest even if RCGs' home not yet formally licensed.

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<i>In re AJ</i>	153 Hawai'i 282, 534 P.3d 546 (App. 2023)	ICA (unpub.)	AJ born drug exposed. AS (sibling) had been living with aunt, but had no legal caretaker. Parent's rights to 3 older siblings terminated. Court found aggravated circumstances. Parents rights terminated.	TPR affirmed. Findings of fact not clearly erroneous and supported by unchallenged findings of fact. No reasonable efforts required (as to AS) because in that case, court found aggravated circumstances. No abuse of discretion to not grant Father a continuance because case had been open for almost 2 years, and there were aggravated circumstances, which means a TPR motion required to be filed within 60 days.
<i>In re M.J.</i>	154 Hawai'i 39, 543 P.3d 1091 (App. 2024)	ICA (unpub.)	Father convicted of SA, not compliant w/ ordered sex offender treatment. Father received a "maximum benefit" discharge bc would not admit to abuse. Father assessed to be low-risk. Court gave Father unsupervised visits. No evidence in the record that "maximum benefit" discharge had higher rate of recidivism than clinical discharge. Court did its own research to try to figure out different between "maximum benefit" discharge and "clinical discharge" but did not find anything.	ICA affirmed order for child to have unsupervised visits with Father, on basis that findings of fact were not clearly erroneous (highly fact-specific) and the Family Court did not abuse its discretion. Harmless error for family court to conduct its own research because court did not find anything and so did not take judicial notice of anything.
<i>In re M.C.</i>	153 Hawai'i 445, 541 P.3d 665 (App. 2024)	ICA (unpub.)	Adjudication trial rescheduled multiple times. On trial date, Father did not appear. Counsel gave the court two documents from medical providers, saying Father was "incapacitated" for the 2 days of trial and that he had a virus. Court denied request for continuance, authorized Father to appear via Zoom, but Father did not appear via Zoom. Court defaulted Father. Doctor's letters not admitted into evidence. Father's counsel did not move to set aside default.	No abuse of discretion in denying request for a continuance. ICA found significant "the Family Court offering to let L.B. appear by Zoom, trying to contact him multiple times after his non-appearance, inviting counsel to move to set aside L.B.'s default, and L.B.'s failure to then submit 'other relevant and credible evidence as to why [he] inexcusably failed to appear.'"

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<i>In re M.O.</i>	154 Hawai'i 91, 545 P.3d 580 (App. 2024)	ICA (unpub.)	DHS filed Petition for FC after being ordered to in related guardianship case. Mother and Father appeared, appointed counsel. Father stip'd to adjudication and service plan. Hearing continued as to Mother for Chuukese interpreter. At one hearing, only 1 Chuukese interpreter present, though 2 parents needed an interpreter. Court continued hearing 30 days and 2 interpreters present at next hearing.	TPR affirmed. Mother did not show prejudice from interpreter issues. Hearing that did not have interpreter continued; hearing where 2 parents needed an interpreter continued so another interpreter could be present.
<i>David v. Betts</i>	2024 WL 2214613	D. Hawaii	In 2012, Family Court granted Mother sole legal and physical custody, enters no-contact order against Father. In 2020, Father filed TRO. DHS arranged for child to be removed from school on the Big Island and flown to Kauai to reside with Father. TRO later dismissed as to child because Father had no right to file it. DHS then files petition for TFC. Mother sues DHS for constitutional violation.	In relevant part, Court holds DHS did not deceive the court (or anyone) about Father's lack of custody rights when it filed for TFC. BUT, DHS may have violated Mother's and child's right to familial association when it facilitated the removal of child from school and "transferred" her to Father because there was evidence DHS caseworkers knew about the custody order prior to the "transfer" of child. Case will proceed to trial.
<i>U.S. v. Rahimi</i>	602 U.S. ____ (2024)	SCOTUS	Respondent had violent altercation with girlfriend involving a gun. Girlfriend got a restraining order, including findings that Respondent committed "family violence" and was a "credible threat" to girlfriend and their child. Order suspended his gun license. Respondent later indicted in federal court for possession of a firearm by an individual subject to a DV restraining order. Respondent argued that federal prohibition violated his 2nd Amendment rights.	Upheld federal prohibition on possession by someone subject to a DV restraining order: When an individual has been found to be a "credible threat" to the physical safety of another, they may be temporarily disarmed. Reversed decision of the Fifth Circuit Court of Appeals.