NO. 22656

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

SANDY BOGGS, Plaintiff-Appellant,

vs.

STEVEN EUGENE BOGGS, Defendant-Appellee.

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(FC-DA NO. 96-0495)

MEMORANDUM OPINION
(By: Moon, C.J., Levinson, Nakayama, Ramil, and Acoba, JJ.)

In this consolidated appeal,[1] plaintiff-appellant Sandy Boggs[2] (Sandy) appeals from several orders of the family court in an ongoing dispute involving the enforcement of a protective order in favor of defendant-respondent Steven Boggs (Steven) and his family against Sandy and the family court's award of attorney's fees and costs to Steven.

I. BACKGROUND

A. History of Relationship

The following facts are based on the family court's findings of fact entered on June 23, 1997 in support of its February 14, 1997 protective order against Sandy.

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[1] By order dated February 2, 2001, this court consolidated appeal Nos. 21677, 22625, and 22656, under appeal No. 22656, for purposes of disposition.

[2] We note that the instant appeals were filed in the name of Sandy Boggs, despite the family court's February 14, 1997 order directing Sandy to "immediately cease using the surname 'Boggs' and . . . cause all of her records reflecting such name to be changed and the name 'Boggs' deleted."

Steven and Sandy began dating in 1980. At that time, Sandy represented herself as Sandy Byrnes, but would later use a series of other names, including, inter alia: Sandy Boggs (Sandy and Steven were never married), Sandy Burgard, Sandy Ek, and Francis Byrnes. Sandy moved into Steven's Makaʻa Street residence in 1981. They lived together at the residence on and off for several years. In 1987, Steven left Hawaiʻi and moved to California to attend law school. He allowed Sandy to remain in the residence to maintain the property. Steven added Sandy's name on the title to the property to facilitate her management of the property. During the time Steven was attending law school, both he and Sandy dated other people. When he returned to Hawaiʻi in 1990, they decided to give their relationship another try. While Steven was studying for the bar examination in early 1991, Sandy became violent and threatening toward him. Steven left the residence. Thereafter, Sandy broke into Steven's private locked filing cabinet and stole his personal business and financial records. She then went to several brokerage houses where Steven had accounts and changed the mailing address to her private drop box to which Steven did not have access. She made charges on Steven's credit cards and opened new credit card accounts in Steven's name without his knowledge or consent. In March 1991, Sandy had the locks changed to the front door of Steven's Opihikao residence, where he was then living. She also broke into the residence, stole blank checks from Steven's

checkbook, and used the stolen checks, which resulted in over $1,200.00 being charged against Steven's checking account.

In December 1991, Steven began dating his future wife, Diane, which upset Sandy. In 1992, Steven began to campaign for a state political office and moved to Hawai'i Kai. Over the next year or so, Sandy's harassment of Steven escalated, and she also began harassing Diane and Diane's family. This harassment included phone calls, letters, showing up uninvited to Steven's residence and campaign functions, and hiring a detective to find out information about Diane, Diane's family and the couple's wedding plans. In October 1992, Steven ran into Sandy in Honolulu, and Sandy told him that she had a dream about Diane in a body bag. Steven and Diane married in May 1993. On June 2, 1993, at Honolulu Airport, Sandy verbally attacked Steven and Diane and attempted to ram Steven's car. On June 9, 1993, Steven petitioned the family court for a temporary restraining order against Sandy. However, a hearing was never held because Sandy could not be served.

In July 1993, Steven filed a police report after discovering that Sandy had made fraudulent credit card charges in his name (totaling more than $10,000) in May and June 1993. Steven filed two additional police reports in October 1993 due to Sandy's repeated harassment. However, Sandy's behavior continued through 1994 and 1995, including interfering with Steven's financial affairs, making numerous harassing calls to Steven and

Diane at their residence, and making harassing calls to Steven at his office, using various aliases.

In 1996, Steven contacted an attorney regarding the Makaʻa Street residence, where Sandy was still living, in order to address his rights as an owner of the property and because he needed to retrieve personal belongings from the residence. Sandy received official notice that Steven would be inspecting the residence on March 7, 1996. Steven went to the residence several times that day to collect his personal belongings. He went once with two private investigators when no one was home and changed the locks, went once again alone, and planned to return a third time. When he returned, there were several police officers at the residence. The police had responded to a 911 call made by Sandy claiming that someone had broken into the house, was in her closet with a knife, and was trying to kill her. Steven approached the house where a locksmith was changing the locks. Upon seeing Steven, Sandy screamed for help, attracting several police officers. Steven explained why he was there and showed the officers his deed to the property. The officers asked Steven if he wished to collect any of his belongings, but Steven refused to enter the house while Sandy was there. After speaking with the police, Steven left the house.

B. Procedural History

On May 22, 1996, Sandy filed an "Ex Parte Petition for Temporary Restraining Order [(TRO)] for Protection" against Steven in the Family Court of the First Circuit. Sandy made

several allegations, including, inter alia, that: (1) on March 7, 1996, Steven had broken into her home, stolen her belongings, threatened her on numerous occasions, and physically abused her; (2) she and Steven had an abusive relationship that had lasted eleven years; (3) Steven was mentally ill and posed a threat to her; and (4) that Steven had killed and threatened to kill her cats. The petition was heard on June 4, 1996, at which time both parties requested a protective order against the other. The family court issued mutual temporary restraining orders and set the matter for trial.

After conducting several hearings, the family court entered its order on February 14, 1997 [hereinafter, February 14, 1997 Order]. The family court found that,

> 1. None of the stated allegations contained in [Sandy's May 22, 1996 TRO Petition] are supported by the evidence.
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> . . . .
>
> 2. [Steven] was not physically and emotionally abusive to [Sandy] throughout their relationship of eleven (11) years as [Sandy] claimed.
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> . . . .
>
> 4. As between the parties, [Sandy] was less credible than [Steven]. The [c]ourt considered numerous circumstances and events in determing the relative credibility of [the parties.] Those circumstances and events included but were not limited to:
>
> (a) the circumstances surrounding [Sandy's] use of the surname "Boggs";
> (b) [Sandy's] inability to recall;
> (c) [Sandy's] lack of medical evidence;
> (d) the time between [Sandy's] filing for a Temporary Restraining Order and date of the alleged events therein;
> (e) inconsistency between [Sandy's] fearfulness and her repeated attempts to contact and confront [Steven];
> (f) [Sandy's] outrage upon learning of [Steven's] marriage to DIANE BOGGS;
> . . . .
> (h) [Sandy's] conduct that may have caused harm to [Steven] in attempting to open bank accounts in [Steven's] name, forging [Steven's] name, stealing checks from [Steven], and/or charging

without authorization on [Steven's] credit card; and

(i) [Sandy's] history and pattern of threatening and harassing conduct similar to the present case directed at other individuals in the past.

5. As between the parties, [Sandy], and not [Steven], was the true aggressor and [Steven], not [Sandy], was the true victim. The [c]ourt considered numerous circumstances and events in determining [which party] was the aggressor. Those circumstances and events included but were not limited to:

. . . .

(b) [Sandy's] admission to vulgar, threatening calls;

(c) [Sandy's] admission to outrage at [Steven's] refusal to respond to her calls;

(d) [Sandy's] hiring of a private investigator to contact DIANE BOGGS and her family;

(e) [Sandy's] use of harassing, vulgar greeting cards using profane language to suggest that she and [Steven] had sexual relations just prior to the date of [Steven's] marriage to DIANE BOGGS;

(f) [Sandy's] uninvited and unwelcome presence at [Steven's] residence and campaign functions;

(g) [Sandy's] admission of leaving harassing messages for [Steven];

(h) [Sandy's] admission of threatening and harassing calls to [Steven's] wife;

(i) Honolulu Police Department records and phone company records supporting [Steven's] claims;

. . . .

(k) [Sandy's] attempt to run into [Steven's] vehicle while screaming at [Steven];

(l) [Sandy's] use of [Steven's] surname without legal basis;

. . . .

(n) [Sandy's] interception of [Steven's] mail, theft of [Steven's] records, entry into [Steven's] home, and pursuit of [Steven] and his wife;

(o) [Sandy's] damage to [Steven's] property;

. . . .

The family court ordered as follows:

A. The [Temporary] Restraining Order entered in favor of [Sandy] and against [Steven] on June 4, 1996 is hereby dissolved forthwith;

B. The [Temporary] Restraining Order entered in favor of [Steven] and his family and against [Sandy] is hereby extended to and shall continue in effect until June 4, 1999.

C. A separate Family Court Restraining Order in favor of [Steven], his family, and his agents and against [Sandy] . . . shall enter concurrently with this Order.

D. [Sandy] shall enroll in and complete an anger management program at her expense, to commence as soon as possible.

E. [Sandy] shall immediately cease using the surname "Boggs" and shall immediately cause all of her records reflecting such name to be changed and the name "Boggs" deleted.

> F. [Sandy] shall immediately cease holding herself out as the spouse or former spouse of Defendant for any reason whatsoever.
>
> G. [Sandy] shall immediately cease to open, attempt to reopen, use, charge, or encumber in any way any accounts belonging to [Steven] or bearing [Steven's] name.
>
> H. [Sandy] shall immediately surrender any and all firearms in her possession, ownership or control.
>
> I. [Sandy] shall pay fifty percent (50%) of [Steven's] legal fees incurred in this action. . . .

Sandy moved for reconsideration of the February 14, 1997 order. On April 1, 1997, the family court denied Sandy's motion for reconsideration and entered judgment in favor of Steven against Sandy in the amount of $22,498.69 for attorney's fees and costs. Sandy appealed the April 1, 1997 award of attorney's fees to this court. Boggs v. Boggs, No. 20666 (Haw. Jan. 14, 1999) (mem.) [hereinafter, Boggs I]. Thereafter, on June 23, 1997, the family court entered even more detailed findings of fact[3] and conclusions of law in support of its February 14, 1997 and April 1, 1997 orders.

On October 10, 1997, while the appeal in Boggs I was pending, Steven moved for enforcement relief based on the February 14, 1997 order seeking entry of: (1) a civil contempt order against Sandy for violating provisions D, E, and G of the protective order; (2) an order "directing the issuance of mittimus to have [Sandy] incarcerated until she complies with existing [c]ourt orders"; (3) an order referring the

[3] The family court entered 104 separate findings regarding the history of the relationship between Sandy and Steven, discussed above, and re-stated many of the findings from its February 14, 1997 order. In addition to the facts detailed in section I.A. above, the family court found that, based on a post-mortem examination of one of Sandy's cats done by Sandy's own veterinarian, the cat had died of natural causes and that there was no sign of mistreatment.

investigation of Sandy's perjury to the proper prosecutorial agency for falsely accusing him of sexual assault;[4] (4) an order requiring Sandy to submit to an examination of judgment debtor under oath; and (5) an order directing Sandy to pay Steven's attorney's fees and costs associated with the motion for enforcement relief. In March 1998, Sandy filed for relief from the February 14, 1997 order and the April 1, 1997 judgment pursuant to Hawai'i Family Court Rules (HFCR) Rule 60(b).[5] In two orders filed April 22, 1998 and April 24, 1998 [hereinafter, the April 1998 orders], the family court: (1) denied Sandy's motion for relief; (2) partially granted enforcement relief to Steven by referring the case to the prosecutor's office for criminal investigation of possible violations of the February 14, 1997 order and alleged perjury; (3) based on its referral to the prosecutor's office for criminal investigation, denied Steven's request for an order finding Sandy in civil contempt; and (4) ordered Sandy to pay Steven's attorney's fees and costs associated with Steven's motion for enforcement relief and Sandy's HFCR Rule 60(b) motions for relief in the amount of

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[4] The alleged perjury was based on the testimony of Sandy given during a deposition in a separate matter which contradicted Sandy's claim of sexual assault.

[5] We note that, notwithstanding the general effect of the filing of a notice of appeal, the mere filing of a notice of appeal does not affect the validity of a judgment, and the family court retains jurisdiction to enforce the judgment. See TSA Int'l, Ltd. v. Shimizu Corp., 92 Hawai'i 243, 265, 990 P.2d 713, 735 (1999). This court has recognized that a HFCR Rule 60(b) motion may be filed in the family court during the pendency of an appeal. Magoon v. Magoon, 70 Haw. 605, 610 n.1, 780 P.2d 80, 83 n.1 (1989) (citing Life of the Land v. Ariyoshi, 57 Haw. 249, 252, 553 P.2d 464, 466 (1976)). If the family court indicates that it will grant the motion, the appellant may then move in this court for a remand of the case. Id.

$9,849.00. After the family court denied Sandy's motions for reconsideration of the April 1998 orders, Sandy appealed. The appeal from the April 1998 orders is presently before this court as Boggs v. Boggs, No. 21677.

On September 30, 1998, the ICA issued a summary disposition order (SDO) affirming the February 14, 1997 order awarding Steven attorney's fees and costs. Boggs v. Boggs, No. 20666 (Haw. Ct. App. Sept. 30, 1998) (SDO). This court granted Sandy's petition for writ of certiorari to review the ICA's decision. On January 14, 1999, this court issued a memorandum opinion in Boggs I and held that the family court did not have authority to award attorney's fees under Hawai'i Revised Statutes (HRS) § 586-5.5(a), the statute cited in the family court's February 14, 1997 order. However, we concluded that the family court did have authority to award attorney's fees under a different statute, HRS § 607-14.5. Under HRS § 607-14.5, the family court's award of attorney's fees must be based upon a specific finding that Sandy's suit was frivolous. Because the family court made no such finding, this court vacated the ICA's summary disposition order and remanded the case to the family court for a specific written determination of whether the suit was frivolous.

On May 26, 1999, the family court, on remand, made a specific finding of frivolousness, incorporating all of its June 23, 1997 findings of fact and conclusions of law, and entered an order awarding attorney's fees and costs to Steven in the

original amount. Sandy appealed the family court's May 26, 1999 order, which is presently before this court as Boggs v. Boggs, No. 22625.

Meanwhile, with the expiration date of the original protective order against Sandy approaching, Steven moved for a three-year extension of the protective order. On June 2, 1999, the family court granted Steven's motion and extended the protective order against Sandy until June 4, 2002. Sandy's appeal from the June 2, 1999 order is presently before this court as Boggs v. Boggs, No. 22656.

As previously noted, appeal No. 21677 (from the April 1998 order), appeal No. 22625 (from the May 26, 1999 order), and appeal No. 22656 (from the June 2, 1999 order) were consolidated for purposes of disposition.

II. STANDARDS OF REVIEW

A. Award of Attorney's Fees

It is the general rule in this jurisdiction that attorney's fees and costs may not be awarded absent statute, agreement, stipulation, or precedent authorizing the allowance thereof. See Lemay v. Leander, 92 Hawai‘i 614, 626, 994 P.2d 546, 558 (2000). Whether an award of attorney's fees and costs is authorized by law is a question of law reviewable de novo. See, e.g., id. at 620, 626, 994 P.2d at 552, 558. The reasonableness of an award of authorized attorney's fees and costs is reviewed for an abuse of discretion. See Booker v. Midpac Lumber Co., Ltd., 65 Haw. 166, 170-71, 649 P.2d 376,

379-80 (1982). "An abuse of discretion occurs where the trial court has clearly exceeded the bounds of reason or disregarded rules or principles of law or practice to the substantial detriment of a party litigant." State ex rel. Bronster v. United States Steel Corp., 82 Hawai'i 32, 54, 919 P.2d 294, 316 (1996).

B. Findings of Fact and Conclusions of Law

Findings of fact entered by the family court "shall not be set aside unless clearly erroneous, and due regard shall be given to the opportunity of the trial court to judge the credibility of the witnesses." Hawai'i Family Court Rules (HFCR) Rule 52(a) (2000); see also In the Interest of Jane Doe, 84 Hawai'i 41, 46, 928 P.2d 883, 888 (1996). Under this standard, we will not disturb a finding of fact unless, after examining the record, we are left with a "definite and firm conviction . . . that a mistake has been committed." Id. (citation and brackets omitted) (ellipses in original). "The test on appeal is . . . whether there was substantial evidence to support the conclusion of the trier of fact. 'Substantial evidence' . . . is credible evidence which is of sufficient quality and probative value to enable a person of reasonable caution to support a conclusion." Id. (citation omitted) (ellipses in original).

"Conclusions of law . . . are not binding upon an appellate court and are freely reviewable for their correctness." Id. (citation and brackets omitted). "Thus, we review [conclusions of law] de novo under the right/wrong standard." Id.

III. DISCUSSION

A. Appeal No. 22625

As previously stated, this court, in Boggs I, vacated the family court's award of attorney's fees and costs and remanded the case for a specific written determination of whether Sandy's claims and defenses were frivolous within the meaning of HRS § 607-14.5 (1993).[6] HRS § 607-14.5 provided as follows:

> **Attorneys' fees in civil actions.** (a) In any civil action in this State where a party seeks money damages or injunctive relief, or both, against another party, and the case is subsequently decided, the court may, as it deems just, assess against either party, and enter as part of its order, for which execution may issue, a reasonable sum for attorneys' fees, in an amount to be determined by the court upon a specific finding that the party's claim or defense was frivolous.
>
> (b) In determining the award of attorneys' fees and the amounts to be awarded, the court must find in writing that all claims or defenses made by the party are frivolous and are not reasonably supported by the facts and the law in the civil action.

(Emphases added).

On May 26, 1999, the family court, on remand, entered its specific finding of frivolousness. In so doing, the family court emphasized that: (1) there was no credible evidence supporting Sandy's claims; (2) Sandy was the true aggressor in this case; and (3) Sandy has been harassing and abusing Steven for years. The family court then made the following specific finding of frivolousness:

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[6] We note that HRS § 607-14.5 was amended in 1999. 1999 Haw. Sess. L. Act 237, § 3 at 731. Unless indicated otherwise, further references to HRS § 607-14.5 refer to the 1993 version in effect at the time of the proceedings relevant to this appeal.

> [T]he [c]ourt now makes the specific and unequivocal finding that all of [Sandy's] claims contained in her Petition are not reasonably supported by the facts and the law, that they are manifestly and palpably without merit, brought in bad faith and therefore frivolous within the meaning of HRS § 607-14.5[] . . . .
>
> Based on the [c]ourt's finding of frivolousness, it is reasonable, fair and just to award [Steven] as against [Sandy] attorney's fees in the sum of $22,498.69 (i.e., 50% of [the] $44,967.38 [in fees and costs incurred by Steven]) leaving intact the original award of fees [filed February 14, 1997.]

On appeal, Sandy argues that the family court's finding of frivolousness was clearly erroneous and that the family court abused its discretion because the amount of attorney's fees awarded was unreasonable. Because Sandy has not challenged any of the family court's June 23, 1997 findings of fact, which were incorporated into its May 26, 1999 order, they are binding. See Kawamata Farms, Inc. v. United Agri Products, 86 Hawai'i 214, 252, 948 P.2d 1055, 1093 (1997) ("If a finding is not properly attacked, it is binding; and any conclusion which follows from it and is a correct statement of law is valid.").

This court has defined a frivolous claim, under HRS § 607-14.5, as "a claim so manifestly and palpably without merit, so as to indicate bad faith on the pleader's part such that argument to the court was not required." Canalez v. Bob's Appliance Service Center, Inc., 89 Hawai'i 292, 300, 972 P.2d 295, 303 (1999) (citations omitted). Sandy contends that, because the family court did not summarily dispose of her initial petition, set the matter for trial, encouraged settlement of the matter, and heard arguments from both sides, the family court's

finding of frivolousness was clearly erroneous. Sandy's contentions are without merit.

The mere fact that Sandy made false statements does not, in and of itself, demonstrate that her claim was "manifestly and palpably without merit." Canalez, 89 Hawai'i at 300, 972 P.2d at 303. However, our review of the record, particularly the family court's numerous undisputed findings, supports the conclusion that Sandy's initial petition for a temporary restraining order and the proceedings that followed were indeed brought in bad faith as part of the pattern of continued harassment against Steven.

Sandy maintains that the amount of attorney's fees awarded was unreasonable because the family court failed to make any specific findings regarding Sandy's ability to pay. She relies on cases involving divorce proceedings wherein the family court awarded attorney's fees under HRS § 580-9 (1976).[7] See Horst v. Horst, 1 Haw. App. 617, 623-24, 623 P.2d 1265, 1270 (1981) (quoting Farias v. Farias, 58 Haw. 227, 233, 566 P.2d

[7] HRS § 580-9 (1976) provided as follows:

> After the filing of a complaint for divorce or separation the court may make such orders relative to the personal liberty and support of either spouse pending the complaint as he may deem fair and reasonable and may enforce the orders by summary process. The court may also compel either spouse to advance reasonable amounts for the compensation of witnesses and other expenses of the trial, including attorney's fees, to be incurred by the other spouse and may from time to time amend and revise the orders.

Horst v. Horst, 1 Haw. App. 617, 622 n.2, 623 P.2d 1265, 1269 n.2 (1981).

1104, 1109 (1977)). In interpreting HRS § 580-9, this court has stated that

> an award of attorney's fees is within the sound discretion of the trial court, limited only by the standard that it be fair and reasonable. In determining the fair and reasonable amount of attorney's fees [in divorce proceedings], the trial court should consider the financial ability of the parties and the amount necessary for the efficient prosecution or defense of the action. The latter depends on the character of the litigation, services to be performed, and all other circumstances which may tend to lessen or increase the probable expenses of the litigation.

Id. However, we have found no authority that requires the family court to make a specific finding as to the party's ability to pay an award of attorney's fees based on a finding of frivolousness under HRS § 607-14.5. Of course, the family court, in exercising its discretion regarding the reasonableness of attorney's fees, may consider the party's ability to pay. Significantly, however, Sandy did not allege, in her memorandum in opposition to Steven's request for attorney's fees, that she was unable to pay. Our review of the record indicates that the family court fully considered the arguments of the parties and the applicable law in awarding attorney's fees on remand, and there is nothing in the record that demonstrates that the family court's award was unreasonable.

Based on the foregoing, we hold that the family court's finding of bad faith was not clearly erroneous, the finding of bad faith supported the finding of frivolousness, and the family court did not abuse its discretion in awarding Steven attorney's fees on remand. Accordingly, we affirm the family court's May 26, 1999 order.

We also note that Sandy previously raised the ability-to-pay argument in Boggs I. Although not expressly rejected in Boggs I, the argument was impliedly rejected by this court's holding that the family court need only make a written finding of frivolousness in order to award of fees under HRS § 607-14.5. Sandy's appeal of the family court's May 26, 1999 order is, thus, no more than a restatement of the arguments properly raised and rejected. We therefore hold that, based on our review of the record, Sandy's appeal from the May 26, 1999 order (No. 22625) was brought in bad faith as part of an ongoing pattern of harassment and is, therefore, frivolous.[8] See Abastillas v. Kekona, 87 Hawai'i 446, 449, 958 P.2d 1136, 1139 (1998) (citing Mestayer v. Wisconsin Physicians Serv. Ins. Corp., 905 F.2d 1077, 1081 (7th Cir. 1990) ("An appeal may be frivolous when it merely restates arguments that the . . . court properly rejected.") (Citations and internal quotation marks omitted.).

B. Appeal No. 21677

Appealing from the April 1998 orders, Sandy alleges that the family court erred by: (1) denying her HFCR Rule 60(b) motion for relief from the February 14, 1997 order and April 1,

[8] Hawai'i Rules of Appellate Procedure (HRAP) Rule 38 (2000) provides as follows:

> If a Hawai'i appellate court determines that an appeal decided by it was frivolous, it may, after a separately filed motion or notice from the appellate court and reasonable opportunity to respond, award damages, including reasonable attorneys' fees and costs, to the appellee.

1997 judgment;[9] and (2) awarding Steven attorney's fees and costs related to Steven's motion for enforcement relief and opposition to Sandy's HFCR Rule 60(b) motion.

1. **Denial of HFCR 60(b) motion**

In Sandy's HFCR Rule 60(b) motion, she requested relief based on: (1) newly discovered evidence under subsection (b)(2); (2) allegations that Steven "intentionally deceived the court" under subsection (b)(3); and (3) alleged inconsistencies in and other challenges to the family court's findings of fact under subsection (b)(6). In his opposition to the motion, Steven argued, inter alia, that: (1) the motion was untimely; (2) the alleged "newly discovered evidence" could have been and should have been discovered prior to trial in this matter; (3) there was

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[9] HFCR Rule 60(b) (2000) provides as follows:

> On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from any or all of the provisions of a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order, or proceedings was entered or taken. For reasons (1) and (3) the averments in the motion shall be made in compliance with Rule 9(b) of these rules. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court.

no deception on Steven's part; (4) the findings of fact were supported by sufficient evidence and clearly indicated the court's determination with respect to the credibility of the principle witnesses, i.e., the parties; (5) any minor inconsistencies in the findings could be explained and/or were not relevant; and (6) Sandy failed to demonstrate any "exceptional circumstances" justifying relief under HFCR Rule 60(b)(6). After reviewing the parties' written memoranda and supporting documents and hearing oral argument, the family court summarily denied Sandy's HFCR Rule 60(b) motion in all respects.

On appeal, Sandy contends that the family court erred by denying the motion. Sandy's entire argument, in both her opening and reply brief, is as follows:

> Further, the Family Court clearly abused its discretion in denying [Sandy's] Motion for Relief From Order of February 14, 1997 and April 1, 1997, as [Sandy's] motion showed clear evidence of physical abuse of [Sandy] by [Steven] and that [Steven] perpetrated fraud upon the court.[10]

Sandy's opening brief fails to identify anything in the record to support her point of error or challenge any specific finding of fact or conclusion of law by the family court. See HRAP Rule 28(b)(4) and (7) (2000).[11] Sandy asserts that her motion

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[10] The same argument, verbatim, is repeated in the reply brief without additional support.

[11] HRAP Rule 28(b) provides in relevant part as follows:

> [T]he appellant shall file an opening brief, containing the following sections . . . :
> . . . .
> (4) A concise statement of the points of error set forth in separately numbered paragraphs. Each point shall state: (i) the alleged error committed by the court or agency; (ii) where in the record the alleged error occurred;
> (continued...)

contained "clear evidence of physical abuse" and Steven "perpetrated fraud upon the court," but fails to provide any argument, legal authority, or evidence showing that the family court acted irrationally or disregarded applicable law in denying her motion. See HRAP Rule 28(b)(7). Because of Sandy's failure to comply with the HRAP, we disregard her contentions with respect to the denial of her HFCR Rule 60(b) motion, and decline to notice plain error.

2. Award of Attorney's Fees and Costs

Sandy contends that the family court erred in awarding Steven attorney's fees and costs in the amount of $9,849.40 in connection with his motion for enforcement relief and his opposition to her HFCR Rule 60(b) motion. Specifically, Sandy alleges that the family court erred because: (1) the court lacked statutory authority to award fees and costs; (2) the court failed to make a finding as to Sandy's ability to pay; and (3) the award

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[11](...continued)

> and (iii) where in the record the alleged error was objected to or the manner in which the alleged error was brought to the attention of the court or agency. Where applicable, each point shall also include the following:
> . . . .
> (C) when the point involves a finding or conclusion of the court or agency, a quotation of the finding or conclusion urged as error;
> . . . .
> Points not presented in accordance with this section will be disregarded, except that the appellate court, at its option, may notice a plain error not presented. . . .
> . . . .
> (7) The argument, containing the contentions of the appellant on the points presented and the reasons therefor, with citations to the authorities, statutes and parts of the record relied on. The argument may be preceded by a concise summary. Points not argued may be deemed waived.

(Emphases added).

was inequitable because it did not reflect the merits of the pleadings. Steven argues that the family court had the inherent authority to award attorney's fees and costs under HRS §§ 571-8.5(a)(6) and (10) (1993), HRS § 586-5.5 (Supp. 1996), HRS § 586-11 (1993), as well as express authority to award attorney's fees and costs under HRS § 607-14.7 (1993). He further contends that the merits of the pleadings and the evidence presented in support thereof showed that: (1) Sandy had violated the family court's February 14, 1997 protective order; (2) an award of attorney's fees was necessary to enforce the protective order and prevent a miscarriage of justice; (3) significant expense was incurred due to Sandy's "bad faith" in avoiding service of process; and (4) Sandy's HFCR Rule 60(b) motion for relief was frivolous.

As previously stated, attorney's fees cannot be awarded unless authorized by statute, stipulation, agreement or precedent. Lemay v. Leander, 92 Hawai'i 614, 626, 994 P.2d 546, 558 (2000). Because there was no stipulation or agreement between the parties as to attorney's fees, we must determine whether the family court's award of attorney's fees and costs was authorized by statute or precedent.

The family court's April 1998 orders did not cite any specific statutory provision or other authority supporting its award of fees and costs. The award included attorney's fees incurred by Steven in seeking enforcement of the family court's protective order and in defending against Sandy's HFCR Rule 60(b)

motion. The family court issued the protective order against Sandy on February 14, 1997 pursuant to HRS § 586-5.5.[12] Steven argues that, inasmuch as HRS § 586-5.5 authorizes the family court to "provide for further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse," the family court had the inherent authority, under HRS § 586-5.5, to award attorney's fees to Steven. We disagree. As we determined in Boggs I, because the "plain language of its provisions does not expressly provide for an award of attorney's fees[,]" the family court "had no authority to award attorney's fees to [Steven] under HRS § 586-5.5." Boggs I, mem. op. at 4-5 (citations omitted). Based on the law of the case doctrine, we reject

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[12] HRS § 586-5.5 (Supp. 1996) provided in pertinent part as follows:

> **Protective order; additional orders.** (a) If after hearing all relevant evidence, the court finds that the respondent has failed to show cause why the order should not be continued and that a protective order is necessary to prevent domestic abuse or a recurrence of abuse, the court may order that a protective order be issued for such further period as the court deems appropriate, not to exceed three years from the date the protective order is granted.
>
> The protective order may include all orders stated in the temporary restraining order and may provide such further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse . . . .
>
> (b) A protective order may be extended for a period not to exceed three years from the date the original protective order was granted. Upon application by a person or agency capable of petitioning under section 586-3, the court shall hold a hearing to determine whether the protective order should be extended. In making a determination, the court shall consider evidence of abuse and threats of abuse that occurred prior to the initial restraining order and whether good cause exists to extend the protective order.
>
> The protective order may include all orders stated in the temporary restraining order and may provide such further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse . . . .

The above section was amended in 1998; however, the amendments are not substantive and do not impact the issues here.

Steven's contention that the family court had inherent authority pursuant to HRS § 586-5.5. See Weinberg v. Mauch, 78 Hawai'i 40, 47, 890 P.2d 277, 284 (1995) (Pursuant to the doctrine of the law of the case, "a determination of a question of law made by an appellate court in the course of an action becomes the law of the case and may not be disputed by a reopening of the question at a later stage of the litigation.").

Steven further argues that the family court had the authority to award attorney's fees under HRS § 586-11, which provides criminal penalties for violations of protective orders issued pursuant to HRS chapter 586 and states that "[a]ll remedies for the enforcement of judgments shall apply to this chapter." HRS § 586-11, however, does not, in and of itself, authorize an award of attorney's fees. Similarly, HRS § 571-8.5 does not specifically authorize an award of attorney's fees. HRS §§ 571-8.5(6) and (10), respectively, provide that the family court has the power to "[e]nforce decrees and judgments; and punish contempts according to law" and "[t]o make and award such judgments, decrees, orders and mandates, issue such executions and other processes, and do such other acts and take such other steps as may be necessary to carry into full effect the powers which are or shall be given to them by law or for the promotion of justice in matters pending before them." Although the general provisions discussed above broadly define the family court's powers to enforce judgments and carry out its duties, they do not reflect the legislature's intent to authorize attorney's fees.

If the legislature had intended to provide for an award of attorney's fees for the enforcement of protective orders issued pursuant to HRS chapter 586, it would have expressly done so. Cf. HRS § 604-10.5 (Supp. 2000) (providing district court with power to enjoin harassment and expressly authorizing award of attorney's fees for actions brought under HRS § 604-10.5 in addition to criminal penalties for violations of orders issued thereunder); HRS § 580-47(f) (Supp. 2000) (authorizing family court to award attorney's fees and costs in divorce proceedings).

Notwithstanding the lack of any specific provision in HRS chapter 586 or under HRS § 571-8.5 authorizing an award of attorney's fees, the family court may, as we held in Boggs I, award attorney's fees under HRS § 607-14.5 (1993) when a party's claims or defenses are frivolous. See discussion supra. Moreover, HRS § 607-14.7 (1993) authorizes the award of attorney's fees and costs in connection with a party's attempt to obtain satisfaction of a money judgment.[13]

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[13] HRS § 607-14.7 provides as follows:

> In addition to any other attorney's fees, costs, and expenses which may or are required to be awarded, and notwithstanding any law to the contrary, the court in any civil action may award to a judgment creditor, from a judgment debtor, reasonable attorney's fees, costs, and expenses incurred by the judgment creditor in obtaining or attempting to obtain satisfaction of a money judgment, whether by execution, examination of judgment debtor, garnishment, or otherwise. The court may award attorney's fees which it determines is reasonable, but shall not award fees in excess of the following schedule:
>
> 25 per cent on first $1,000 or fraction thereof.
> 20 per cent on second $1,000 or fraction thereof.
> 15 per cent on third $1,000 or fraction thereof.
> 10 per cent on fourth $1,000 or fraction thereof.
> 5 per cent on fifth $1,000 or fraction thereof.
> 2.5 per cent on any amount in excess of $5,000.

(continued...)

We acknowledge that the family court did not make a specific finding of frivolousness in accordance with HRS § 607-14.5 prior to awarding fees and costs in its April 1998 orders denying Sandy's HFCR Rule 60(b) motion and granting in part Steven's motion for enforcement relief. However, Sandy's HFCR Rule 60(b) motion essentially raised the same claims made in her original petition, i.e., that Steven was the true aggressor. She basically argued that she had new evidence to refute the family court's findings of fact, including, inter alia, evidence that Steven had assaulted her, that she and Steven got into a fight while he was studying for the 1991 bar examination because he collected pornography, and that she had title interest in the Maka'a Street residence. Sandy's "new evidence" that she had an interest in the residence was cumulative and irrelevant because the family court's findings acknowledged that both Sandy and Steven had an interest in the residence.

Although the family court failed to enter a specific written finding that the Sandy's HFCR Rule 60(b) motion was frivolous, the family court's subsequent finding that Sandy's entire claim was brought in bad faith and, therefore, frivolous supports the family's court's award of attorney's fees and costs related to the HFCR 60(b) motion. It is patently clear from our

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[13](...continued)
The above fees shall be assessed on the amount of judgment, exclusive of costs and all other attorney's fees.

We note that the maximum amount of fees and costs available under HRS § 607-14.7 in connection with the enforcement of the April 1, 1997 judgment in the amount of $22,498.69 is $1,187.47.

review of the record that Sandy's HFCR Rule 60(b) motion was an attempt to re-litigate the findings of fact regarding Sandy's credibility and the family court's determination that Steven was the victim of abuse and harassment. This court has recognized that,

> [a]wards of attorneys' fees induce people to reconsider and ensure that refusals to surrender do not burden the innocent. They also protect the courts--and derivatively parties in other cases--from impositions on their time. . . . The court has an interest in the orderly conduct of business, an interest independent of the [opposing party.]

Abastillas v. Kekona, 87 Hawai'i 446, 449, 958 P.2d 1136, 1139 (1998) (citation omitted) (holding that the ICA abused its discretion in denying fees and costs on appeal, where the ICA affirmed the trial court's finding that lawsuit was frivolous under HRS § 607-14.5). "This is particularly true where . . . the appellant has engaged in a pattern of frivolous and vexatious litigation." Id. Under the circumstances of this case, we are convinced that remanding to the family court for a specific finding of frivolousness with regard to Sandy's HFCR Rule 60(b) motion would not only constitute a waste of judicial resources, but unnecessarily encourage further abuse of the judicial process.

Having affirmed the family court's findings on remand that Sandy's initial petition was brought in bad faith and, therefore, frivolous, we affirm the family court's award of attorney's fees related to the HFCR Rule 60(b) motion as authorized by HRS § 607-14.5. See Taylor-Rice v. State, 91

Hawai'i 60, 73, 979 P.2d 1086, 1099 (1999) ("[T]his court may affirm a judgment of the trial court on any ground in the record which supports affirmance.") (citations omitted).

With regard to the award of attorney's fees related to Steven's motion for enforcement relief, HRS § 607-14.7 authorizes "the court in any civil action [to] award to a judgment creditor, from a judgment debtor, reasonable attorney's fees, costs, and expenses incurred by the judgment creditor in obtaining or attempting to obtain satisfaction of a money judgment, whether by execution, examination of judgment debtor, garnishment, or otherwise." In his motion, Steven sought to, inter alia, enforce the family court's April 8, 1997 judgment against Sandy in the amount of $22,498.69. Although Sandy had filed a notice of appeal from the judgment, the family court retained jurisdiction to enforce the judgment. See TSA Int'l Ltd. v. Shimizu Corp., 92 Hawai'i 243, 265, 990 P.2d 713, 735 (1999). The family court ordered Sandy to submit to a judgment debtor examination, and, pursuant to HRS § 607-14.7, the family court had the authority to award Steven fees and costs incurred in obtaining a judgment debtor examination.

In the same motion for enforcement relief, Steven also requested the entry of an order finding Sandy in civil contempt for violations of the February 14, 1997 order and an order referring the case to the prosecutorial authorities for criminal violations of the protective order and investigation of alleged perjury by Sandy. However, the family court declined to enter a

finding of civil contempt and instead referred the matter to the prosecutor's office for investigation of possible criminal violations. The family court also did not enter any specific findings as to whether Sandy had violated the February 14, 1997 order. Absent such findings, we have found no authority supporting the award of fees and costs in connection with Steven's request for civil and criminal contempt.

Based on the record, we are unable to determine the proper allocation of those fees and costs authorized by HRS §§ 607-14.5 and 607-14.7. The family court's award of $9,849.00 does not distinguish between those amounts awarded for fees and costs related to Steven's opposition to Sandy's HFCR Rule 60(b) motion, those related to the Steven's request for an order finding civil contempt and referral to prosecutorial authority for criminal violations, and those related to his efforts to satisfy the $22,498.69 judgment. Thus, we vacate the family court's April 1, 1998 order awarding Steven attorney's fees in the amount of $9,849.00. Having determined that the family court is authorized to award attorney's fees and costs under HRS §§ 607-14.5 and 607-14.7, we remand this case to the family court for a determination of those fees and costs and for the entry of judgment in the appropriate amount.

C. Appeal No. 22656

Lastly, Sandy appeals the family court's June 2, 1999 order extending the protective order, pursuant to HRS

§ 586-5.5(b),[14] against her and in favor of Steven for an additional three years. The family court entered the following findings of fact and conclusions of law:

> I. FINDINGS OF FACT
>
> 1. The June 23, 1997 Findings of Fact and Conclusions of Law . . . in support of [the] February 14, 1997 Family Court Restraining Order have not been overturned on appeal and will be adopted by this Court as binding evidence of the abuse and threats of abuse on the part of [Sandy] against [Steven] that occurred prior to the entry of the initial order for protection herein (the February 14, 1997 Family Court Restraining Order).
>
> 2. [Sandy] has continued to abuse [Steven] since the entry of the initial order for protection herein . . . by committing the following acts:
>
> (a) Maliciously damaging [Steven's] property located at 7269 Makaʻa Street in Honolulu; and
>
> (b) Attempting to have all mail addressed to [Steven] and/or his family sent to [Sandy's] mother's address in California.
>
> 3. [Steven] is still subject to imminent harm by [Sandy].
>
> II. CONCLUSIONS OF LAW
>
> . . . .
>
> 2. The Court is required by HRS Section 586-5.5(b) to consider evidence of the abuse and threats of abuse that occurred prior to the entry of the initial order for protection herein . . . when deciding whether to extend the order for protection.
>
> 3. The Court's June 23, 1997 Findings of Fact and Conclusions of Law entered in support of the initial order for protection herein . . . are the law of this case and must be considered by the Court in deciding [Steven's] April 21, 1999 Motion to Amend Existing Order.
>
> 4. [Steven] has shown good cause why the existing order for protection in this case should be extended for another three (3) years while [Sandy] has not shown good cause why it should not be extended.

Accordingly, the family court ordered as follows:

> 5. Pursuant to HRS Section 586-5.5(b), the initial order for protection herein . . . , which terminates by its terms on June 4, 1999, shall be extended until June 4, 2002.
>
> 6. There shall be no non-enforcement of this new Order for Protection without a prior Court Order.
>
> 7. [Sandy] is prohibited from threatening or physically abusing [Steven], his family, or his agents, and from maliciously damaging the property of [Steven], his family, or his agents.
>
> 8. [Sandy] is prohibited from contacting [Steven], his family, or his agents.

[14] See supra note 12.

> 9. [Sandy] is prohibited from telephoning, writing, or otherwise electronically communicating with [Steven], his family, or his agents.
>
> 10. [Sandy] is prohibited from coming within one hundred (100) feet of [Steven]'s residence or [Steven's] place of employment.
>
> 11. [Sandy] is prohibited from coming within one hundred (100) feet of [Steven], his family, or his agents in all neutral areas.
>
> 12. [Sandy] is prohibited from possessing and owning any firearms for the duration of this Order for Protection. . . .
>
> 13. If [Sandy's] attorney is unable to secure an Acknowledgment of Service of the new Order for Protection by June 4, 1999 or if [Sandy] fails to pick up and acknowledge service of a copy of the new Order for Protection from the Adult Services Branch at the First Circuit Family Court by June 4, 1999, a warrant for her arrest shall issue with bail being set at $5,000.00.

First, Sandy argues that the family court improperly considered its June 23, 1997 findings of fact and conclusions of law as evidence of prior abuse and harassment by Sandy. Her contention is wholly without merit and without any basis in the law or in the facts in the record. HRS § 586-5.5(b) provides that "the court shall consider evidence of abuse and threats of abuse that occurred prior to the initial restraining order." Sandy acknowledges that she has not appealed or challenged the June 23, 1997 findings of fact. The family court's June 23, 1997 findings of fact and conclusions of law in support of its initial order are, therefore, binding, and the family court was required to consider them. See Chun v. Board of Trustees of Employees' Retirement System of State of Hawaii, 92 Hawai'i 432, 992 P.2d 127, 136 (2000) (referring to the "law of the case" as the "the usual practice of courts to refuse to disturb all prior rulings in a particular case, including rulings made by the judge himself. Unless cogent reasons support the second court's

action, any modification of a prior ruling of another court of equal and concurrent jurisdiction will be deemed an abuse of discretion.") (citing Wong v. City and County of Honolulu, 66 Haw. 389, 396, 665 P.2d 157, 162 (1983)); see also Taylor-Rice, 91 Hawai'i at 65, 979 P.2d at 1091 ("If a finding is not properly attacked, it is binding[.]").

Second, Sandy contends that the family court's findings of fact regarding abuse subsequent to the February 14, 1997 order are clearly erroneous because there was no "testimony" to support them, and thus, the family court lacked good cause to extend the protective order. Again, Sandy's claim is wholly without merit and contrary to the facts in the record. HFCR Rule 7(b) (1999) provided, in relevant part, that, "[i]f a motion requires the consideration of facts not appearing of record, it shall be supported by affidavit, signed by the person having knowledge of the facts and competent to testify."[15] In accordance with HFCR Rule 7(b), Steven submitted a signed affidavit in support of the motion to extend the initial order of protection and appeared at the May 18, 1999 hearing on the matter to affirm the statements made in his affidavit.

[15] We note that, in October 1999, the HFCR were amended. Currently, HFCR Rule 43(e) (2000) provides that, "[w]hen a motion is based on facts not appearing of record, the court may hear the matter on affidavits presented by the respective parties, but the court may direct that the matter be heard wholly or partly on oral testimony or deposition."

In the affidavit, Steven stated that, after obtaining an order from the circuit court requiring Sandy to vacate the Makaʻa Street residence, on February 9, 1999, he, his wife, and two sheriffs forcibly entered the residence. Steven discovered damage to the residence, including, inter alia, the removal of the doorbell and cat feces and urine permeating the carpets. Steven asserted that Sandy continues to use the surname Boggs despite the family court's February 14, 1997 order prohibiting her from doing so. Steven also stated that, on or about February 26, 1999, he received a notice (a copy of which was attached as an exhibit) from the United States Post Office confirming the change of address. According to Steven, he had learned, on or about March 2, 1999, that someone had requested that any mail addressed to any member of the Boggs family at the Makaʻa Street residence be forwarded to Sandy's mother's residence in California.

We note that, although she was not present at the hearing, Sandy submitted an affidavit denying that she made any attempt to divert Steven's mail and that she had vacated the Makaʻa Street residence as ordered on February 8, 1999. She also submitted letters and declarations by several third parties that the residence was clean when she moved out and that there was no property damage. The family court considered her evidence as well as the arguments made at the hearing by her counsel in support thereof before entering its findings. Thus, we reject

Sandy's contention that there was no "testimony" to support the family court's findings. Finding no evidence of error in the family court's findings of fact, we must give deference to the family court's assessment of the relative credibility of the evidence presented. HFCR Rule 52(a); see also In the Interest of Jane Doe, 84 Hawai'i 41, 46, 928 P.2d 883, 888 (1996). Based on the June 23, 1997 findings of fact related to the initial order for protection and the court's findings regarding continued abuse subsequent to the initial order, we cannot say that the family court erred in concluding that there was good cause to extend the order of protection for another three years.

Third, Sandy argues that the family court's orders are overly broad and not necessary to prevent further abuse as required by HRS § 586-5.5. In light of the ongoing pattern of abuse and harassment, discussed herein, against Steven and his family at his home, in public places, and at his place of employment, Sandy's contention is without merit.

Fourth, Sandy alleges that the family court's orders are too broad and vague because the acts prohibited are not properly defined and objectively ascertainable. Specifically, she argues that the family court lacks authority to prohibit her from possessing firearms or ammunition. To the contrary, HRS § 134-7(f) (Supp. 2000) specifically provides in relevant part that:

> No person who has been restrained pursuant to an order of any court, including an ex parte order as provided in this subsection, from contacting, threatening, or physically abusing any person, shall possess or control any firearm or ammunition therefor, so long as the protective order or any extension is in effect, unless the order, for good cause shown, specifically permits the possession of a firearm and ammunition. The restraining order or order of protection shall specifically include a statement that possession or control of a firearm or ammunition by the person named in the order is prohibited. Such person shall relinquish possession and control of any firearm and ammunition owned by that person to the police department of the appropriate county for safekeeping for the duration of the order or extension thereof.

(Emphasis added.)

Sandy further asserts that the prohibited acts are not properly defined because the order does not specifically identify the members of Steven's family, does not identify Steven's agents, and does not specifically identify Steven's place of employment or residence.[16] As previously discussed, the extended protective order was clearly justified as necessary to prevent further abuse against Steven through his family and agents, and, given the history of this case, it is disingenuous for Sandy to suggest that she has "no way of knowing who these persons or agents are."

Finally, Sandy maintains that the family court lacked authority to order a warrant for her arrest if she failed to appear or otherwise acknowledge service of the extended

[16] We note that the initial order of protection, issued on February 14, 1997, used the same language, prohibiting Sandy from contacting Steven, his family, or his agents.

protective order because she was under no obligation to personally appear at the May 18, 1999 hearing. She appears to read the order as a penalty for failing to appear at the May 18, 1999 hearing. However, the order clearly states that the warrant will issue only if she fails to acknowledge service of the June 2, 1999 order by June 4, 1999. The family court's order was clearly justified by the need to enforce the order and prevent further abuse and, thus, authorized by HRS § 586-5.5.

Based on the foregoing, we affirm the family court's June 2, 1999 order in all respects. Furthermore, in light of the family court's May 26, 1999 finding of bad faith on Sandy's part in bringing the initial petition and the lack of any merit whatsoever in her arguments in this appeal, we hold that her appeal of the family court's June 2, 1999 order extending the protective order is frivolous.

IV. CONCLUSION

For the reasons discussed above, we affirm the family court's May 22, 1999 and June 2, 1999 orders and find her appeals of these orders (appeal Nos. 22625 and 22656) to be wholly without merit and, therefore, frivolous. We vacate the family court's April 22, 1998 order awarding attorney's fees to Steven in the amount of $9,489.00 and remand appeal No. 21677 to the family court for a determination of the amount of attorney's fees

and costs authorized by HRS §§ 607-14.5 and 607-14.7 and for the entry of judgment in that amount.

DATED: Honolulu, Hawai‘i, May 21, 2001.

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