

Testimony via email to: [HUS testimony@Capitol.hawaii.gov](mailto:HUS testimony@Capitol.hawaii.gov)

HOUSE OF REPRESENTATIVES  
THE TWENTY-FIFTH LEGISLATURE  
REGULAR SESSION OF 2010  
COMMITTEE ON HUMAN SERVICES

Rep. John M. Mizuno, Chair

Rep. Tom Brower, Vice Chair

HEARING

DATE: Thursday, February 25, 2010

TIME: 10:15am

PLACE: Conference Room 329 State Capitol

HCR 81\_ REQUESTING AN AUDIT OF CHILD CUSTODY PROCEEDINGS

TESTIMONY FROM: Melinda (Chee) Franklin

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**I write in STRONG SUPPORT OF**  
**HCR81:**  
**REQUESTING AN AUDIT OF**  
**CHILD CUSTODY PROCEEDINGS**

Custody determinations have been recently commented upon by the Hawaii Intermediate Court of Appeals (ICA). On June 19, 2009, as a Pro Se party, I won my Appeal # 28843 in the ICA. The ICA's *Memorandum Opinion* discusses custody determinations by the family court: ***“As evidenced by this case, custody disputes are particularly susceptible to dueling allegations***

***of misconduct and abuse. Absent a true emergency, ex- parte custody proceedings can provide fertile ground for a misuse of the judicial process.”***

**Background Information:** I am a mother who was involved in protracted custody litigation. By profession, I am a licensed, board certified nurse practitioner. I care for patients with cancer. I have been recognized by my alma mater, the University of Michigan, for humanitarianism and scholarly excellence.

Following my divorce from my ex-husband, Kevin Chee (a Honolulu attorney with Chee and Markham), our custody arrangement was Joint physical and legal. After our divorce our 4 children resided primarily with me on the mainland. Their father had liberal visitation. After 4 years, on the final day of his summer visitation, Kevin Chee did not send our children back to their primary residence with me on the mainland. He then maneuvered an Ex-Parte change of custody to Sole for himself, and attached a Temporary Restraining Order (TRO) blocking me from all contact with our 4 children. The TRO persisted for 7 years! Ongoing custody litigation left me with insurmountable debt.

In 2009, as a Pro-Se litigant, I finally won my Appeal # 28843 in the Hawai'i ICA. In their *Memorandum Opinion* pertinent to my Appeal, the ICA states: ***“Before the children’s relocation to Hawai’i pursuant to the 1999 stipulated custody order, Mother had been the primary caretaker for the children. Even after the children’s relocation, Mother enjoyed liberal time-sharing rights. By prohibiting all contact between Mother and***

*her children, the November 2000 Ex Parte Orders effected a draconian change in the custodial arrangements. Yet, the family court permitted the November 2000 Ex Parte Orders to stand without ruling on the validity of the allegations on which the orders were based or the continued necessity for the orders. We further hold that, if a family court determines that an emergency situation requires an immediate change of custody, then the ex parte order changing custody must include notice of: (1) a post-deprivation hearing, promptly set; and (2) the grounds for this extraordinary measure. A parent deprived of custody in this manner must be given a prompt and meaningful opportunity to address the allegations supporting the immediate change of custody.*

Here, with respect to the November, 2000 Ex-parte Orders, the family court did not comply with requirements set forth in Doe. The family court did not hold a prompt post-deprivation hearing to address the allegations supporting the change in custody over the children from joint to father's sole custody or the restraining orders prohibiting mother from any contact with the children. Indeed, despite Father's only seeking *temporary* sole custody of the children, and (presumably) *temporary* restraining orders prohibiting contact by Mother, the November 2000 Ex Parte Orders remained in effect for years without any substantive review by the family court. Thus the November 2000 Ex Parte Orders cannot stand."

**Recommendation:** I strongly support **HCR81: REQUESTING AN AUDIT OF CHILD CUSTODY PROCEEDINGS**

In Chee v Chee, a change of custody occurred without a Custody Evaluation – or a hearing! The Judiciary ignored previous findings of domestic violence:

Honolulu Police (HPD) were called after my ex-husband, Kevin Chee, punched me while I was holding our 18 month old son. Kevin Chee was ordered out of our home by HPD. Following our divorce, Kevin Chee retaliated by obstructing contact between me and our 4 children. He manipulated the Judiciary, as referenced above by the Opinion of the Hawai'i Intermediate Court of Appeals.

Unless there are standards of practice pertinent to custody awards and criteria regarding those appointed to evaluate child custody, the injustice my children and I have suffered will continue.

Respectfully submitted,

Melinda (Chee) Franklin,

Member, Angel Group, and Hawai'i Children's Rights Council

***"Injustice anywhere is a threat to justice everywhere"***

Dr. Martin Luther King Jr.

**From:** Chris Lethem [crslethem@gmail.com]  
**Sent:** Thursday, February 25, 2010 8:03 AM  
**To:** HUSstestimony  
**Subject:** Testimony in SUPPORT of HCR81 audit of child custody proceedings with Amendments

**Categories:** Blue Category

To: Rep. John M. Mizuno, Chair  
Rep. Tom Brower, Vice Chair  
Committee on Human Services

Via email to: [HUSstestimony@Capitol.hawaii.gov](mailto:HUSstestimony@Capitol.hawaii.gov)

From: Chris Lethem

Subj: Testimony in **SUPPORT** of **HCR81** audit of child custody proceedings **with Amendments**

Hearing: Thursday, February 25, 2010; 10:15 a.m.; Room 329, State Capitol

As a father my ex-wife took my children overseas under false pretenses and spent nearly two years working to get my children back to the U.S. only to be falsely accused of domestic violence as a means to gain a tactical advantage just prior to a custody trial. The personal cost to successfully defend myself against these allegations has now taken **over five years** of my life, hurt my reputation, cost me incredible sums of money. It also means I've lost precious time with my children I can never get back. My case exemplifies the need to reform the processes the family court implements to more effectively address allegations of domestic violence. To have the State Auditor submit findings and recommendations related to how this process works, for a broad number of cases, would be quite helpful.

Please amend the following section to read as follows:

BE IT RESOLVED by the House of Representatives of the Twenty-fifth Legislature of the State of Hawaii, Regular Session of 2010, the Senate concurring, that the Auditor is requested to conduct an audit of all child custody proceedings where family violence has been alleged to have been committed by a parent, that were heard by the Family Courts from January 1, 2004, through December 31, 2009, to assess whether the allegations were proven, unsubstantiated or found to be false, the consequences of these categories of allegations, and for the allegations where findings of family violence were made by the court the use and application of section 571-46(a)(9)-(14), Hawaii Revised Statutes; and

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