

APPENDIX 3

App. No. ____
LC v. MG

On Application for Extension of Time
to File a Petition for Writ of Certiorari
to the Supreme Court of Hawaii

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SCAP-16-0000837
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SCAP-16-0000837

IN THE SUPREME COURT OF THE STATE OF HAWAII

LC,
Petitioner-Appellant,

vs.

MG and CHILD SUPPORT ENFORCEMENT AGENCY, STATE OF HAWAII, Respondents-Appellees.

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
(CAAP-16-0000837; FC-P NO. 16-1-6009)

ORDER DENYING MOTION FOR RECONSIDERATION AND REARGUMENT

(By: McKenna, Pollack, and Wilson, JJ.,
with Nakayama, J., dissenting separately,
with whom Recktenwald, C.J., joins)

Upon consideration of Petitioner/Appellant LC's Motion for Reconsideration and Reargument filed October 25, 2018 (the "motion"), the memorandum and declaration submitted in support thereof, and the records and files herein,

IT IS HEREBY ORDERED that the motion is denied.

Contrary to the arguments raised in the motion, (1) although the issue of whether, under Hawai'i law, a spouse's lack of consent to artificial insemination or other methods of conception could be a basis for rebutting the marital presumption of parentage was not discussed in the briefs, it was

a major focal point of the oral argument in this case, and no party requested an opportunity to provide supplemental briefing; (2) the Opinion of McKenna, J., as to Part III(B) does not create an "irrebuttable" or "conclusive" presumption of parentage, see n.8 of the Opinion of McKenna, J., as to Part III(B), and (3) the cases and situations cited in the motion are fully distinguishable.

DATED: Honolulu, Hawai‘i, November 2, 2018.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson



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SCAP-16-0000837

IN THE SUPREME COURT OF THE STATE OF HAWAII

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vs.

MG and CHILD SUPPORT ENFORCEMENT AGENCY, STATE OF HAWAII,
Respondents-Appellees.

APPEAL FROM THE FAMILY COURT OF THE FIRST CIRCUIT
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CONCURRENCE AND DISSENT
(By: Nakayama, J., in which Recktenwald, C.J., joins)

Because neither party in this case briefed whether the marital presumption of parentage could be rebutted by demonstrating lack of consent to the artificial insemination procedure that led to the birth of the child, I believe the parties deserve an opportunity to do so.

Accordingly, I would grant in part LC's Motion for Reconsideration and Reargument and allow the parties to brief the specific issue addressed sua sponte by a Majority of the Court in Opinion of McKenna, J., as to Part III(B). I would deny the Motion in all other respects.

DATED: Honolulu, Hawai'i, November 2, 2018.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

