

DISSENTING OPINION BY MOON, C.J.,
IN WHICH NAKAYAMA, J., JOINS

I respectfully dissent. In the present case, the majority notes that “[i]t is arguable that the [Intermediate Court of Appeals (ICA)] erred” in its interpretation of Peters v. Weatherwax, 69 Haw. 21, 731 P.2d 157 (1987). Majority Opinion at 10. Nevertheless, the majority concludes that “any error in this regard is harmless under the particular circumstances of this case” and goes on to interpret Hawai‘i Revised Statutes (HRS) § 346-37 (Supp. 1997) in a manner consistent with both Peters and the ICA’s disposition in the present case. Majority Opinion at 11-17. Therefore, unlike State v. Hanson, 97 Hawai‘i 71, 73, 34 P.3d 1, 3 (2001) and Korsak v. Hawaii Permanente Medical Group, 94 Hawai‘i 297, 300, 12 P.3d 1238 (2000), the present case does not contain grave errors or obvious inconsistencies dictating the need for any clarification by this court. See HRS § 602-59 (1993). Accordingly, I would dismiss certiorari as improvidently granted.