

NO. 28095

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

SIOBHAN RADWAY, Petitioner

vs.

HON. JEANNE L. O'BRIEN, Respondent

ORIGINAL PROCEEDING

E.M. RIMANDO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2006 AUG 25 PM 1:55

FILED

ORDER

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon consideration of the petition for a writ of prohibition and mandamus filed by petitioner Siobhan Radway, the papers in support and the record, it appears that the denial of judicial disqualification is not reviewable by mandamus or prohibition under the authorities cited by petitioner inasmuch as the order denying judicial disqualification is not an order disqualifying counsel and petitioner is not prohibited from appealing from the final order entered in the post-judgment proceeding in FC-P No. 97-092K. The decisions of the respondent judge denying judicial disqualification, denying continuance of the July 20, 2006 evidentiary hearing and modifying custody are reviewable on appeal from the final order entered in the post-judgment proceeding in FC-P No. 97-092K. Petitioner will have a remedy by way of appeal from the final order and a writ of prohibition or mandamus is not intended to take the place of an appeal. Therefore,

IT IS HEREBY ORDERED that the petition for a writ of prohibition and mandamus is denied without prejudice to any remedy petitioner may have by way of appeal.

DATED: Honolulu, Hawai'i, August 25, 2006.

Michael S. Zola,
for petitioner

