

NO. 28229

IN THE SUPREME COURT OF THE STATE OF HAWAII

KYONG HO KIM, Petitioner

vs.

THE HONORABLE MICHAEL D. WILSON,  
Judge of the First Circuit Court, Respondent

K. HAMAKAHO  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

2006 NOV - 8 PM 12:00

FILED

ORIGINAL PROCEEDING

ORDER

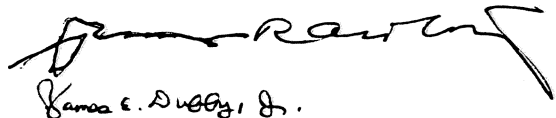
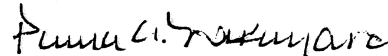

(By: Moon, C.J., Levinson, Nakayama, Acoba and Duffy, JJ.)

Upon consideration of the petition for a writ of mandamus filed by petitioner Kyong Kim and the papers in support, it appears that petitioner has a right to appeal if he is convicted in Cr. No. 05-1-0213. If petitioner is convicted, the respondent judge's refusal to substitute retained counsel for appointed counsel is reviewable on appeal from the judgment of conviction entered in Cr. No. 05-1-0213, petitioner will have a remedy by way of appeal from the judgment of conviction and a writ of mandamus is not intended to take the place of an appeal. Therefore,

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

DATED: Honolulu, Hawai'i, November 8, 2006.

Randall Oyama  
for petitioner  
on the petition



James E. Duffy, Jr.