

NO. 28581

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

RONALD D. SILVERMAN and RANDALL P. PODALS, Petitioners,

vs.

THE HONORABLE EDEN ELIZABETH HIFO, JUDGE OF THE FIRST
CIRCUIT COURT, STATE OF HAWAI'I, BARRY W. FEATHER and
BARBARA E. FEATHER, individually and as husband
and wife, Respondents.

ORIGINAL PROCEEDING
(CIV. NO. 05-1-1469)

2007 JUL -8 AM 8:35
NORMA T. YARA
1ST APPELLATE COURTS
STATE OF HAWAII

FILED

ORDER

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

Upon consideration of the petition for a writ of mandamus filed by petitioners Ronald D. Silverman and Randall P. Podals and the papers in support, it appears that the denial of a continuance of the summary judgment hearing was within the discretion of the respondent judge and petitioners fail to demonstrate that the respondent judge flagrantly and manifestly abused her discretion in denying a continuance. The May 31, 2007 order denying a continuance and the respondent judge's alleged bias are reviewable on appeal of the May 31, 2007 order granting summary judgment that is forthwith appealable upon entry of an HRCP 54(b) certified judgment on the order. Petitioners have an adequate remedy by way of appeal and are not entitled to mandamus relief. See Kema v. Gaddis, 91 Hawai'i 200, 204, 982 P.2d 334, 338 (1999) (A writ of mandamus is an extraordinary remedy that will not issue unless the petitioner demonstrates a clear and indisputable right to relief and a lack of alternative means to redress adequately the alleged wrong or obtain the requested

action. Such writs are not intended to supersede the legal discretionary authority of the lower courts, nor are they intended to serve as legal remedies in lieu of normal appellate procedures. Where a court has discretion to act, mandamus will not lie to interfere with or control the exercise of that discretion, even when the judge has acted erroneously, unless the judge has exceeded his or her jurisdiction, has committed a flagrant and manifest abuse of discretion, or has refused to act on a subject properly before the court under circumstances in which it has a legal duty to act.). Therefore,

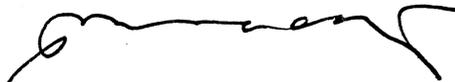
IT IS HEREBY ORDERED that the petition for a writ of mandamus is denied.

DATED: Honolulu, Hawai'i, July 3, 2007.



Steven Levinson

Anna C. Nakayama



Kamoa E. Dullos, Jr.