

NO. 29243

IN THE SUPREME COURT OF THE STATE OF HAWAII

GARY VICTOR DUBIN, Petitioner,

vs.

THE HONORABLE RANDAL K.O. LEE and THE HONORABLE
GLENN J. KIM, JUDGES OF THE CIRCUIT COURT
OF THE FIRST CIRCUIT, STATE OF HAWAII;
HAKIM INVESTMENT CONSORTIUM, LLC; HONOLULU MANAGEMENT, LLC;
and GWEN FRISBEE, Respondents.

NORMA T. YARRA
CLERK, APPELLATE COURTS
STATE OF HAWAII

2008 JUL 29 PM 2:45

FILED

ORIGINAL PROCEEDING
(CIVIL NO. 06-1-1448)

ORDER

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

Upon consideration of the petition for a writ of mandamus filed by petitioner Gary Victor Dubin and the papers in support, it appears that petitioner made no showing that the disqualification order -- entered seventeen months ago on February 14, 2007 -- resulted in irreparable and immediate harm. Absent such showing, the issue of whether there was a sufficient basis for the disqualification need not be reached and petitioner is not entitled to mandamus relief. See Straub Clinic Hosp. v. Kochi, 81 Hawai'i 410, 414, 917 P.2d 1284, 1288 (1996) ("Where the basis upon which the trial court has rested its order of disqualification is clearly insufficient and a convincing showing is made in the petition that irreparable and immediate harm would otherwise be the necessary consequence, the petitioner's application for a writ of mandamus will be granted."). Therefore,

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

DATED: Honolulu, Hawai'i, July 29, 2008.



Steven H. Levinson

Fumio A. Nakayama



James E. Dullig, Jr.