

NO. 29628

IN THE SUPREME COURT OF THE STATE OF HAWAII

GARDINER BOSEY SMITH III, Petitioner,

vs.

THE HONORABLE GLENN J. KIM, JUDGE OF THE CIRCUIT COURT
OF THE FIRST CIRCUIT, STATE OF HAWAII, Respondent.NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAII

2009 FEB 23 AM 9:32

FILED

ORIGINAL PROCEEDING
(CIV. NO. 07-1-0785)ORDER(By: Moon, C.J., Nakayama, Acoba, and Duffy, JJ.
and Intermediate Court of Appeals Judge Nakamura,
assigned by reason of vacancy)

Upon consideration of the petition for a writ of mandamus filed by petitioner Gardiner Bosey Smith III and the papers in support, it appears that petitioner fails to demonstrate a clear and indisputable right to placement of Civil No. 07-1-0785 on the ready calendar or to entry of a final default judgment. See Hawai'i Rules of Civil Procedure Rule 4(c) (service of a complaint and summons shall be made by personal service). Therefore, petitioner is not entitled to mandamus relief. See Kema v. Gaddis, 91 Hawai'i 200, 204-05, 982 P.2d 334, 338-39 (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.). Accordingly,

IT IS HEREBY ORDERED that the clerk of the appellate court shall process the petition for a writ mandamus without payment of the filing fee.

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

DATED: Honolulu, Hawai'i, February 23, 2009.



Pamela C. Nakamura



James E. Duddy, Jr.

