LAW LIBRAF

FILED
2009 APR -7 PM 2:27
NORMA T. YARA
CLERK, APPELLATE COURTS
STATE OF HAWAII

NO. 29706

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

---

GLENN NOBUKI MURAKAMI and ANN SUE ISOBE, Petitioners,

vs.

THE HONORABLE EDEN ELIZABETH HIFO, JUDGE OF THE CIRCUIT COURT OF THE FIRST CIRCUIT, STATE OF HAWAI'I; MICHAEL DAVID SAKATANI; CHRISTINE MARIE SAKATANI; and 808 DEVELOPMENT LLC, Respondents.

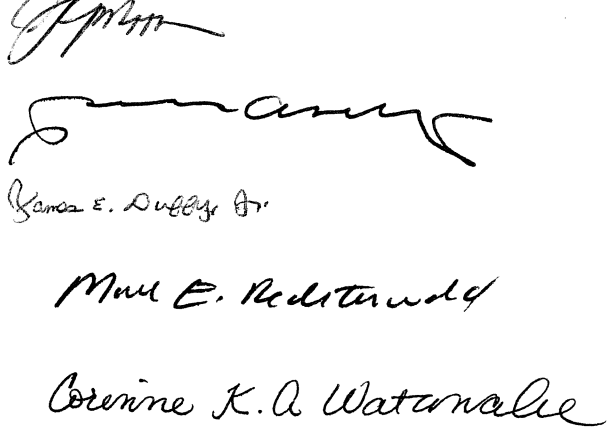
---

ORIGINAL PROCEEDING
(CIVIL NO. 03-1-1712)

ORDER
(By: Moon, C.J., Acoba, and Duffy, JJ., and Intermediate Court of Appeals Chief Judge Recktenwald, in place of Nakayama, J., recused, and Intermediate Court of Appeals Judge Watanabe, assigned by reason of vacancy)

Upon consideration of the petition for a writ of mandamus and/or prohibition filed by petitioners Glenn Nobuki Murakami and Ann Sue Isobe and the papers in support, it appears that the question of whether the respondent judge was required to immediately determine the legal sufficiency of the March 10, 2009 declaration of judicial disqualification is reviewable on appeal from a final order ending the post-judgment proceedings in Civil No. 03-1-1712. Petitioners can appeal from a final order pursuant to HRS § 641-1(a) (Supp. 2008). Consequently, petitioners' case is not one in which the question of disqualification cannot otherwise be reviewed and immediate review by way of mandamus and/or prohibition is not warranted. See Kema v. Gaddis, 91 Hawai'i 200, 204, 982 P.2d 334, 338 (1999) (A writ of mandamus and/or prohibition 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.); Peters v. Jamieson, 48 Haw. 247, 257, 397 P.2d 575, 582 (1964) ("[A] writ of prohibition will lie to compel a trial judge to recuse him[] or [her]self because of bias or prejudice which appears from the record, where . . . the case is one in which the question of disqualification cannot otherwise be reviewed."). Therefore,

IT IS HEREBY ORDERED that the petition for a writ of mandamus and/or prohibition is denied.

DATED: Honolulu, Hawai'i, April 7, 2009.