

NO. 29965

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

SHAWNA LEI CROOK, Petitioner,

vs.

THE HONORABLE MELVIN H. FUJINO, JUDGE OF FAMILY COURT
OF THE THIRD CIRCUIT, STATE OF HAWAI'I, and
THOMAS W. PACE, Respondents.

K. SAMAKADO
CLERK, APPELLATE COURTS
STATE OF HAWAI'I

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FILED

ORIGINAL PROCEEDING
(FC-P No. 08-1-108K)

ORDER

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

Upon consideration of the petition for a writ of mandamus filed by petitioner Shawna Lei Crook and the papers in support, it appears that the "simultaneous proceedings" provision of HRS chapter 583A (Uniform Child-Custody Jurisdiction and Enforcement Act (UCCJEA)) did not apply to FC-P No. 08-1-108K inasmuch as: (1) HRS §§ 583A-206(a) and (b) (2006) apply when a child-custody proceeding has been commenced "in a court of another state having jurisdiction substantially in conformity with the [UCCJEA]" and (2) the child-custody proceeding commenced in California in GF0022980 was not commenced in the subject child's home state, such that the California court did not have jurisdiction substantially in conformity with the UCCJEA. See HRS §§ 583A-201(a)(1) and 583A-102. It further appears that the lifting of the stay of FC-P No. 08-1-108K was within the discretion of the respondent judge and the lifting of the stay was not a flagrant and manifest abuse of discretion. Therefore, petitioner is 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. 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.). Accordingly,

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

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



Paul C. Nakayama



Kenneth E. Sullivan Jr.

