

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

IN THE MATTER OF:) MISC. NO. 09-00114 JMS/LEK
)
FOR JUDICIAL NOTICE IN RE:) ORDER ADOPTING MAGISTRATE
CASE MAG. NO. 09-00253,) JUDGE LESLIE E. KOBAYASHI'S
OTHERS) JUNE 19, 2009 FINDINGS AND
) RECOMMENDATION AND
) DISMISSING PETITION
)

**ORDER ADOPTING MAGISTRATE JUDGE LESLIE E. KOBAYASHI'S
JUNE 19, 2009 FINDINGS AND RECOMMENDATION AND DISMISSING
PETITION**

On April 7, 2009, the Federal Bureau of Investigation executed various search warrants and obtained evidence, funds, and vehicles in connection with a criminal investigation regarding the marketing of a program which allegedly provides mortgage loan assistance to individuals experiencing financial difficulties. Various petitions challenging these search warrants followed, including one filed by Lehua Hoy (“Hoy”) titled, “For Judicial Notice in Re: Mag. No. 09-00253, others,” which was assigned Misc. No. 09-00114 JMS/LEK and which this Order addresses. The Petition alleges that Hoy’s private property was stolen by the “State of Hawaii, Inc and the United States agents,” and seeks return of the seized property.

On June 19, 2009, Magistrate Judge Leslie E. Kobayashi issued her

Findings and Recommendation to Dismiss the Petition (“June 19 F&R”). The June 19 F&R noted that while Hoy had personal property seized by federal agents, her requests are addressed in another case, Misc. No. 09-00101 JMS/BMK, such that her Petition should be construed as merely additional evidence in support of Misc. No. 09-00101 JMS/BMK. Because Magistrate Judge Kobayashi considered those documents in connection with her findings and recommendation in Misc. No. 09-00101 JMS/BMK, the June 19 F&R recommends dismissing Hoy’s Petition.

When a party objects to a magistrate judge’s findings or recommendations, the district court must review *de novo* those portions to which the objections are made and “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); *see also United States v. Raddatz*, 447 U.S. 667, 673 (1980); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (“[T]he district judge must review the magistrate judge’s findings and recommendations *de novo if objection is made*, but not otherwise.”).

The deadline for filing an Objection was July 6, 2009. While Hoy did not file any Objection, objections were filed by John Oliver and Mahealani Ventura-Oliver on July 8, 2009, and by Pilialoha K. Teves¹ on July 13, 2009, July

¹ Tevas filed her Petition and Objections as “Authorized Representative” of the (continued...)

14, 2009, and August 10, 2009. All of these objections refer to “Mc 09-00253-LEK/HG-KSC/ et al. & All related cases connected thereto,” and were filed in Misc. No. 09-00099 JMS/LEK and Misc. No. 09-00100 JMS/KSC. To the extent these Objections could be construed as Objections to the June 19 F&R in this action, the court rejects them because they are untimely and these individuals do not have standing to raise objections regarding the seizure of property held by Hoy. Further, even if the court addresses the substance of these Objections, they raise no issues with the June 19 F&R’s determination that the Petition was in fact only additional evidence in support of the petitions in Misc. No. 09-00101 JMS-BMK. Accordingly, the court construes these Objections as Objections to the

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¹(...continued)
Hawaiiloa Foundation.

other petitions stemming from the April 7, 2009 searches and seizures,² and
ADOPTS the June 19 F&R and DISMISSES the Petition.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, August 25, 2009.



/s/ J. Michael Seabright
J. Michael Seabright
United States District Judge

In the Matter of: For Judicial Notice In re: Case Mag No. 09-00253, Others, Misc. No. 09-00114 JMS/LEK, Order Adopting Magistrate Judge Leslie E. Kobayashi's June 19, 2009 Findings and Recommendation and Dismissing Petition

² The court further notes that even if the court considered the substance of these Objections, as explained in the Order Adopting the June 2009 Findings and Recommendations to Dismiss Petitions and Dismissing Petitions in Misc. No. 09-00099 JMS/KSC, Misc. No. 09-00100 JMS/KSC, Misc. No. 09-00101 JMS/BMK, and Misc. No. 09-00102 JMS/LEK, the Objections are wholly frivolous.