

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

IN RE: MAHEALANI V. OLIVER,)	MISC. NO. 09-00120 JMS/LEK
)	
IN RE: ERIC AARON LIGHTER)	ORDER ADOPTING IN PART AND
)	REJECTING IN PART
)	MAGISTRATE JUDGE LESLIE E.
)	KOBAYASHI'S JUNE 19, 2009
)	FINDINGS AND
)	RECOMMENDATION AND
)	DISMISSING PETITION

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

On April 29, 2009, Mahealani V. Oliver filed a letter transmitting declarations by herself and Eric Lighter (“Lighter”), which the Magistrate Judge Leslie E. Kobayashi construed as a petition for relief (“Petition”). While these documents were not clear regarding the relief sought, the letter alleges that “certain special agents” stole “personal private properties, and their related funds from over 2000 Hawaiians and others.” Pet. 1. Indeed, on April 7, 2009, Mahealani V. Oliver’s home was searched and personal property taken by federal agents pursuant to a federal search warrant.

On June 19, 2009, Magistrate Judge Kobayashi issued her Findings and Recommendation (“June 19 F&R”), which construed the Petition as a request

by Mahealani V. Oliver and Lighter to unseal the applications and affidavit for search warrant and for return of property pursuant to Federal Rule of Criminal Procedure 41(g). The June 19 F&R recommends that the sealed applications and search warrants should not be unsealed at this time because the government had sufficiently shown that the criminal investigation requires secrecy, Oliver received copies of the search warrant and a receipt of the items taken, and there is no First Amendment right of access to search warrant proceedings. The June 19 F&R further weighed the relevant factors in determining whether the court should exercise jurisdiction over this pre-indictment request for return of property and recommends that the court not reach the merits of the Rule 41(g) motion.

Currently before the court are two different sets of Objections, and the court addresses each in turn. In the first set, John Oliver (“J. Oliver”) and Mahealani V. Oliver (“M. Oliver”) filed Objections on July 8, 2009 and July 14, 2009 that refer to “Mc 09-00253-LEK/HG-KSC/ et al. & All related cases connected thereto,” and Piliialoha K. Teves¹ also filed Objections bearing this same heading on July 13, 2009, July 14, 2009, and August 10, 2009. All of these Objections were filed in Misc. No. 09-00099 JMS/LEK and Misc. No. 09-00100 JMS/KSC, but to the extent these Objections could be construed as Objections to

¹ Tevas filed her Petition and Objections as “Authorized Representative” of the Hawaiiiloa Foundation.

the June 19 F&R in this action, the court rejects them for the reasons 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 second set of Objections is by Lighter. On June 19, 2009, Lighter filed a Declaration asserting that he has not delivered any documents to this court and that the declaration submitted on April 29, 2009 bearing his name was regarding a state civil action. Because Lighter did not previously submit any documents to the court, the Lighter Declaration asserts that the June 19 F&R should exclude him as a petitioner. Lighter subsequently filed additional declarations and a memorandum reiterating this request. *See* Doc. Nos. 13, 14, 15. These documents also, however, allege facts regarding a “\$3 million pledge to the United States by the ‘Birch heirs’, i.e. Mahealani Ventura-Oliver, et al.” *See e.g.*, Doc. No. 13.

To the extent Lighter seeks to clarify that he did not have any part in the Petition, the court notes this fact for the record. To the extent Lighter attempts to raise additional issues, however, the court finds that Lighter has made no showing of how his allegations are relevant to the June 19 F&R and/or require the

court to come to any conclusion other than the June 19 F&R's determination that the applications and affidavit for search warrant should remain sealed and that the court should not reach the merits of Oliver's request for return of property. The court therefore REJECTS the June 19 F&R to the extent it suggests that Lighter petitioned the court for relief and otherwise ADOPTS the June 19 F&R in all other respects.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, August 25, 2009.



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

In re: Mahealani V. Oliver, In Re: Eric Aaron Lighter, Misc. No. 09-00120 JMS/KEK, Order Adopting in Part and Rejecting in Part Magistrate Judge Leslie E. Kobayashi's June 19, 2009 Findings and Recommendation and Dismissing Petition