

NO. 24403

IN THE SUPREME COURT OF THE STATE OF HAWAII

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KITV-4 and the HONOLULU STAR-BULLETIN, Petitioners,

vs.

THE HONORABLE COLLEEN HIRAI, JUDGE OF THE CIRCUIT  
COURT OF THE FIRST CIRCUIT, STATE OF HAWAII;  
TRUSTEES OF THE ESTATE OF JAMES CAMPBELL, DECEASED;  
BENEFICIARIES OF THE ESTATE OF JAMES CAMPBELL, DECEASED;  
AND, ASHFORD & WRISTON, A LAW PARTNERSHIP, Respondents.

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ORIGINAL PROCEEDING  
(Equity No. 2388)

ORDER

(By: Moon, C.J., Levinson, Nakayama,  
Ramil, and Acoba, JJ.)

Upon consideration of Petitioners KITV-4 and Honolulu Star Bulletin s motion to reconsider the order denying the petition for writ of mandamus filed herein on July 20, 2001, the papers in support, and the records and files herein, it appears that: (1) Although the supreme court has previously reviewed a lower court s denial of access to court records by way of a writ of mandamus or prohibition, Petitioners, in the instant case, filed a motion to intervene for purposes of asserting claims in Equity No. 2388 to open judicial proceedings and court records and a supplemental petition in support; (2) In the hearing before the respondent judge, Petitioners asserted that at this time a petition for a writ of mandamus or prohibition was not the appropriate vehicle to obtain access to court records or for the press and the public to assert their constitutional rights to open judicial access. See Petition for Writ of Mandamus - Exhibit

H - 5/11/01 TR at 11-12; (3) An order denying a motion to intervene is a final appealable order. see Baehr v. Lewin, 80 Hawai i 341, 910 P.2d 112 (1996); (4) Petitioners cite legal authority from other jurisdictions regarding review of motions to intervene to obtain access to judicial records, and the orders denying intervention to obtain access to court records were reviewed by way of appeal. See Jessup v. Luther, 227 F.3d 993 (7<sup>th</sup> Cir. 2000) (former employer of community college brought suit against college alleging wrongful termination, and after parties entered confidential settlement agreement and the order was sealed, newspaper appealed from the district court order denying the newspaper s motion to intervene to assert right to access the documents); EEOC v. National Children s Center, 146 F.3d 1042 (D.C. Cir. 1998) (a mother who brought a tort action against the National Children s Center moved to intervene in a settled sexual harassment action against the center in order to obtain access to material that were under seal or protective order; the district court denied the motion to intervene, and mother appealed); Grove Fresh Distributors, Inc. v. Everfresh Juice Co., 24 F.3d 893 (7<sup>th</sup> Cir. 1994) (in a civil action involving unfair competition between orange juice manufacturers, the district court denied consumers and media s motion to intervene and would-be intervenors appealed); and (5) this court did not misconstrue Petitioner s request for relief. Therefore,

IT IS HEREBY ORDERED that the motion for reconsideration is denied without prejudice to Petitioners raising any arguments or seeking any relief in their pending appeal.

DATED: Honolulu, Hawaii, September 13, 2001.