

NO. 25775

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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STATE OF HAWAI'I, Petitioner,

vs.

SANDRA A. SIMMS, Judge, Circuit Court of the First Circuit,  
State of Hawai'i, and SAMUEL NAITITI, also known as  
Samu Naititi, Respondents.

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ORIGINAL PROCEEDING

ORDER GRANTING PETITION FOR A WRIT OF PROHIBITION DIRECTED TO  
A JUDGE OR, IN THE ALTERNATIVE, FOR AN ORDER STAYING PROCEEDINGS  
(By: Moon, C.J., Levinson, Nakayama, Circuit Judge Ibarra, in  
place of Acoba, J., who is unavailable, and Circuit Judge Wong,  
assigned by reason of vacancy)

Upon consideration of Petitioner State of Hawai'i's  
petition for a writ of prohibition directed to a judge, or in the  
alternative for an order staying proceedings, the papers in  
support and opposition, and the records and files herein, it  
appears that: (1) Petitioner is appealing, pursuant to HRS § 641-  
13(7), from the findings of fact, conclusions of law and order  
determining that Defendant's statements to the police were not  
voluntary entered in State v, Naititi, Cr. No. 02-1-1183; and (2)  
Petitioner seeks an order prohibiting the respondent judge from  
proceeding to trial pending the outcome of the appeal.

Therefore,

IT IS HEREBY ORDERED that the petition is granted, and  
the first circuit court proceedings in State v. Naititi, Cr. No.  
02-1-1183, are stayed pending appeal from the findings of fact,

conclusions of law, and order determining that Defendant's statements to the police were not voluntary.

DATED: Honolulu, Hawai'i, August 6, 2003.

Alexa Fujise,  
Deputy Prosecuting Attorney  
for petitioner on the  
petition

Deborah Lum,  
Deputy Public Defender  
for respondent in  
opposition