

NO. 28594

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

LEONA KALIMA, DIANNE BONER, RAYNETTE NALANI AH CHONG,  
Special Administrator of the Estate of Joseph Ching,  
Deceased, on behalf of themselves and all others  
similarly situated, Petitioners,

vs.

THE HONORABLE VICTORIA S. MARKS, JUDGE OF THE FIRST  
CIRCUIT COURT, STATE OF HAWAI'I; STATE OF HAWAI'I;  
STATE OF HAWAI'I DEPARTMENT OF HAWAIIAN HOME LANDS;  
STATE OF HAWAI'I HAWAIIAN HOME LANDS TRUST  
INDIVIDUAL CLAIMS REVIEW PANEL; LINDA LINGLE,  
in her official capacity as Governor of the  
State of Hawai'i, Respondents.

K. HAMAKADO  
CLERK APPELLATE COURTS  
STATE OF HAWAII

2007 JUL -9 AM 11:31

FILED

ORIGINAL PROCEEDING  
(CIV. NO. 99-4771)

ORDER

(By: Moon, C.J., Levinson, Nakayama, and Duffy, JJ.  
and Intermediate Court of Appeals Judge Nakamura,  
in place of Acoba, J., recused)

Upon consideration of the petition for a writ of prohibition filed by petitioners Leona Kalima, Dianne Boner, and Raynette Nalani Ah Chong, Special Administrator of the Estate of Joseph Ching, Deceased, on behalf of themselves and all others similarly situated and the papers in support, it appears that the transfer of Civil No. 99-4771 to another circuit judge was within the discretion of the respondent judge and petitioners fail to demonstrate that the respondent judge flagrantly and manifestly abused her discretion in transferring the case. Accordingly, petitioners are not entitled to extraordinary relief. See Kema v. Gaddis, 91 Hawai'i 200, 204, 982 P.2d 334, 338 (1999) (A writ of mandamus or prohibition 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. Such writs are not intended to supersede the legal discretionary authority of the lower courts, nor are they intended to serve as legal remedies in lieu of normal appellate procedures. 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.). Therefore,

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

DATED: Honolulu, Hawai'i, July 9, 2007.



Steven H. Dawson

Huiua C. Takayama

James E. Duddy, Jr.

