

NO. 29693

IN THE SUPREME COURT OF THE STATE OF HAWAII

ALEXANDER Y. MARN, Petitioner,

vs.

THE HONORABLE VICTORIA S. MARKS, JUDGE OF THE
COURT OF THE FIRST CIRCUIT, STATE OF HAWAII
JAMES Y. MARN, JR.; JAMES K.M. DUNN, Successor Trustee
of the Annabelle Y. Dunn Trust, Dated June 18, 1991;
and THOMAS E. HAYES, Receiver, Respondents.

2009 MAR 25 PM 3:15
NORMA DYARMA
CLERK, APPELLATE COURTS,
STATE OF HAWAII

FILED

ORIGINAL PROCEEDING
(CIVIL NOS. 98-4706, 98-5371, 07-1-0565)

ORDER

(By: Moon, C.J., Nakayama, Acoba, and Duffy, JJ., and
Circuit Judge Hara, assigned by reason of vacancy)

Upon consideration of the petition for a writ of mandamus and prohibition filed on March 11, 2009 by petitioner Alexander Y. Marn and the papers in support, it appears that petitioner's claim that the respondent judge improperly authorized the interim payments of taxes, attorney's fees, and expenses is not clear and indisputable. The April 3, 2008, June 5, 2008, September 16, 2008, and December 22, 2008 orders are reviewable on appeal from final judgments entered in Civil Nos. 98-4706, 98-5371, and 07-1-0565. Thus, petitioner is not entitled to a writ of mandamus and prohibition. See Kema v. Gaddis, 91 Hawai'i 200, 204-05, 982 P.2d 334, 338-39 (1999) (A writ of mandamus and/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.).

It further appears that the March 11, 2009 petition cannot be treated as an application for a writ of certiorari to review the intermediate court of appeals' dismissal orders filed in Nos. 29421 and 29448 inasmuch as the petition does not meet the requirements of HRS § 602-59 (Supp. 2008) and HRAP 40.1. Therefore,


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

IT IS FURTHER ORDERED that the motion for expedited review is denied.

DATED: Honolulu, Hawai'i, March 25, 2009.



Paula C. Nakayama



James E. Dwyer, Jr.

