

NO. 22239

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

OFFICE OF DISCIPLINARY COUNSEL, Petitioner,

vs.

BURTON D. GOULD, Respondent.

In Re Application for Reinstatement of
BURTON D. GOULD, Petitioner.

EMILIANO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2009 JUN 16 PM 1:45

FILED

ORIGINAL PROCEEDING

ORDER DENYING MOTION PURSUANT TO RULE 60((b)(6)
OF THE HAWAI'I RULES OF CIVIL PROCEDURE
(By: Nakayama, J., for the court¹)

Upon consideration of the Petitioner Burton D. Gould's "Motion Pursuant to Section 60(b)(6) of the Hawai'i Rules of Civil Procedure," the memorandum and affidavit in support thereof, and the record, it appears: (1) Petitioner Gould incorrectly concludes that Chief Justice Moon recused himself from this case when he appointed Retired Justice Steven H. Levinson to temporarily preside on the Hawai'i Supreme Court to hear and determine any and all matters in this case. Chief Justice Moon did not recuse himself from this case; he appointed former Justice Levinson to fill the vacancy on the court created by Justice Levinson's retirement, in accordance with Article VI, Section 2 of the Hawai'i Constitution (as amended 1986) and Hawai'i Revised Statutes § 602-10 (Supp. 2007); (2) Petitioner

¹Considered by: Moon, C.J., Nakayama, Acoba, and Duffy, JJ. and Retired Justice Levinson, appointed by reason of vacancy on January 15, 2009.

Gould believes that he is being unfairly discriminated against because of his race, his age, and previous illness. See Affidavit ¶ 8. However, the record contains no evidence to support this belief; and (3) Chief Justice Moon's November 20, 2008 opinion in Office of Disciplinary Counsel v. Gould did not "contain[] misrepresentations, misstatements of testimony, and depicts a pre-existing prejudice against [Petitioner Gould]," see Affidavit ¶ 17. On the contrary, the opinion fairly reflected the opinion of the court on the weight of the evidence in that case. Finally, it appears that Petitioner Gould's motion is his third attempt to have this court reconsider its opinion and order denying his petition for reinstatement. Therefore,

IT IS HEREBY ORDERED that the motion is denied.

IT IS FURTHER ORDERED that Petitioner Gould shall not file any motion or other document in this court seeking reconsideration, review, or reversal of this court's opinion filed November 20, 2008. This order is without prejudice to a petition for reinstatement filed with the Disciplinary Board, pursuant to RSCH 2.17(c), and a Disciplinary Board report and recommendation thereon.

DATED: Honolulu, Hawai'i, June 16, 2009.

FOR THE COURT:

Aunna O. Nakamura
Associate Justice

