

NO. 29943

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

ERIC AARON LIGHTER, Petitioner,

vs.

THE HONORABLE GLENN S. HARA, JUDGE OF THE CIRCUIT COURT
OF THE THIRD CIRCUIT, STATE OF HAWAI'I; RONALD ALAN OBER;
LESLIE W. BROWN; and JAMES RIETVELD, Respondents.

ORIGINAL PROCEEDING
(CIVIL NO. 03-1-0103)

ORDER

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

Upon consideration of the petition for a writ of mandamus filed by petitioner Eric Aaron Lighter (petitioner) on July 20, 2009 and the papers in support, it appears that petitioner is seeking a ruling from this court that petitioner's January 11, 2006 motion to compel discovery be ruled upon and granted. The record indicates that the motion was granted on January 30, 2006 by the Circuit Court of the Third Circuit, the Honorable Gregg Nakamura (Judge Nakamura) presiding, but the granting of the motion was set aside on May 25, 2006. Petitioner asked Judge Nakamura to "re-grant" the motion on July 22, 2006, but the request was by an unfiled letter, not by motion made pursuant to Hawai'i Rules of Civil Procedure Rule 7(b)(1). Judge Nakamura was not obliged to act on the July 22, 2006 letter request that was not filed in Civil No. 03-1-0103. Petitioner did not properly request a ruling on the motion to compel discovery until the filing of petitioner's June 23, 2009 request directed to the respondent judge, who replaced Judge Nakamura as

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JEREMY, APPELLATE COURTS
STATE OF HAWAII


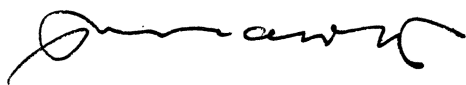
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presiding judge in 2009. Defendant Ronald Ober responded to the June 23, 2009 request on June 30, 2009 and petitioner replied to the response on July 6, 2009. Two weeks later, on July 20, 2009, petitioner filed the instant petition for a writ of mandamus directing the respondent judge to rule on the June 23, 2009 request. The passage of two weeks after the filing of the July 6, 2009 reply is not an unreasonable period of time for ruling on the June 23, 2009 request and does not demonstrate that the respondent judge is refusing to rule on the June 23, 2009 request. Therefore, petitioner is not entitled to mandamus relief. See Kema v. Gaddis, 91 Hawai'i 200, 204, 982 P.2d 334, 338 (1999) (A writ of mandamus 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.). Accordingly,

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

DATED: Honolulu, Hawai'i, August 13, 2009.


Pamela A. Nakayama

Kamon E. Duffly, Jr.
