

**Electronically Filed  
Supreme Court  
SCWC-12-0000099  
21-MAY-2013  
12:50 PM**

SCWC-12-0000099

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

---

COUNTY OF HAWAI‘I, Respondent/Plaintiff-Appellee,

vs.

H. KIMURA STORE, INC., IRENE KIMURA, BRIAN KIMURA,  
Respondents/Defendants-Appellees,

and

MICHAEL TIERNEY, Petitioner/Defendant-Appellant.

---

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS  
(CAAP-12-0000099; CIVIL NO. 00-1-377)

ORDER DISMISSING APPLICATION FOR WRIT OF CERTIORARI  
(By: Recktenwald, C.J., Nakayama, Acoba, McKenna, and Pollack, JJ.)

It appearing that the judgment on appeal in the above-referenced matter not having been filed by the Intermediate Court of Appeals at the time the application for certiorari was filed, see Hawai‘i Revised Statutes § 602-59(a) (Supp. 2011); see also Hawai‘i Rules of Appellate Procedure (HRAP) Rule 36(b)(1) (2012),

IT IS HEREBY ORDERED that Petitioner/Defendant-Appellant’s application for writ of certiorari, filed May 7, 2013, is dismissed without prejudice to re-filing the application pursuant to HRAP Rule 40.1(a) (2012) (“The application shall be

filed within thirty days after the filing of the intermediate court of appeals' judgment on appeal or dismissal order, unless the time for filing the application is extended in accordance with this rule.").

DATED: Honolulu, Hawai'i, May 21, 2013.

Michael Tierney,  
pro se

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

