

NO. 30705

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

CINDY MCENRY, Petitioner,

vs.

DISTRICT COURT OF THE FIRST CIRCUIT, WAIANAE DIVISION,
STATE OF HAWAI'I, and AAHUALII KB, LLC, a Hawaii
Limited Liability Company, Respondents.

ORIGINAL PROCEEDING
(CIVIL NO. 1RC10-1-5251)

ORDER

(By: Moon, C.J., Nakayama, Acoba, Duffy, and Recktenwald, JJ.)

Upon consideration of petitioner Cindy McEnry's petition for a writ of prohibition, it appears that DCRCP 62(d) authorized the district court to approve the amount of a supersedeas bond required to stay the July 30, 2010 judgment for possession pending appeal. Petitioner fails to demonstrate that the district court's approval of a supersedeas bond in the amount of \$154,000 was a flagrant and manifest abuse of discretion. Petitioner can seek a modification of the terms of the district court's stay from the intermediate court of appeals in appeal No. 30597 pursuant to HRAP 8. Therefore, petitioner is not entitled to extraordinary relief. See Kema v. Gaddis, 91 Hawai'i 200, 204-05, 982 P.2d 334, 338-39 (1999) (A writ of 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.). Accordingly,

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

DATED: Honolulu, Hawai'i, August 31, 2010.