

**Electronically Filed
Supreme Court
SCWC-29818
22-NOV-2011
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NO. SCWC-29818

IN THE SUPREME COURT OF THE STATE OF HAWAII

FRANK O. LOHER, Petitioner/Petitioner-Appellant,

vs.

STATE OF HAWAII, Respondent/Respondent-Appellee.

CERTIORARI TO THE INTERMEDIATE COURT OF APPEALS
(ICA NO. 29818; SPP NO. 05-1-0067; CR. NO. 99-1621)

ORDER (1) REJECTING APPLICATION FOR WRIT OF CERTIORARI
FILED ON OCTOBER 17, 2011 AND (2) DISMISSING APPLICATION
FOR WRIT OF CERTIORARI AND MOTION TO SERVE RESPONDENTS
FILED ON NOVEMBER 7, 2011

(By: Nakayama, Acting C.J., Duffy, J. and Circuit Judge Kim,
in place of Recktenwald, C.J., recused; and Acoba, J.,
dissenting, with whom McKenna, J., joins)

Petitioner/Petitioner-Appellant Frank O. Loher's
application for writ of certiorari, filed on October 17, 2011, is
hereby rejected.

IT IS FURTHER ORDERED that the application for writ of
certiorari and motion to serve respondents, filed on November 7,
2011 by Petitioner/Petitioner-Appellant Frank O. Loher, *pro se*,
are hereby dismissed inasmuch as Petitioner is represented by

counsel and Petitioner was not granted permission to appear as *pro se* co-counsel.

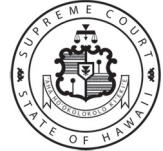
DATED: Honolulu, Hawai'i, November 22, 2011.

Jacob M. Merrill,
for petitioner/
petitioner-appellant
on the application

/s/ Paula A. Nakayama

/s/ James E. Duffy, Jr.

/s/ Glenn J. Kim



DISSENT BY ACOBA, J., IN WHICH MCKENNA, J., JOINS

I would grant the application for certiorari filed on October 17, 2011, but concur with Justice Duffy that the application for certiorari filed on November 7, 2011 must be dismissed.

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna