

**Electronically Filed
Supreme Court
SCPW-14-0000798
24-JUN-2014
11:17 AM**

SCPW-14-0000798

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

LINDA YOSHIKO NAKAGAWA, Petitioner,

vs.

THE HONORABLE GREG K. NAKAMURA, JUDGE OF THE CIRCUIT
COURT OF THE THIRD CIRCUIT, Respondent Judge,

and

JOHNSTON LLC, a Hawai‘i limited liability company, and
DARRYL H.W. JOHNSTON, solely in his capacity as manager
and member of Johnston LLC, Respondent.

ORIGINAL PROCEEDING
(CIV. NO. 13-1-0567)

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

Upon consideration of petitioner Linda Yoshiko Nakagawa’s petition for a writ of mandamus, filed on May 2, 2014, the documents attached thereto and submitted in support thereof, and the record, it appears that petitioner fails to demonstrate that the respondent judge committed a flagrant and manifest abuse of discretion by denying the motion to disqualify counsel, that the basis for the disqualification order is insufficient, and that she will suffer irreparable and immediate harm by counsel’s

representation. Petitioner, therefore, is not entitled to a writ of mandamus. See Kema v. Gaddis, 91 Hawai'i 200, 204-05, 982 P.2d 334, 338-39 (1999) (a writ of mandamus is meant to restrain a judge of an inferior court who 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 he or she has a legal duty to act); Straub Clinic & Hosp. v. Kochi, 81 Hawai'i 410, 415, 917 P.2d 1284, 1289 (1996) (the grant or denial of a motion for disqualification is within the discretion of the trial court); Wong v. Fong, 60 Haw. 601, 604, 593 P.2d 386, 389 (1979) (a petition for a writ of mandamus regarding a disqualification order will not be granted unless the basis upon which the trial court has rested its order of disqualification is clearly insufficient and a convincing showing is made in the petition that irreparable and immediate harm would otherwise be the necessary consequence). Accordingly,

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

DATED: Honolulu, Hawai'i, June 24, 2014.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

