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Supreme Court
SCPW-21-0000323
17-MAY-2021
11:08 AM
Dkt. 6 ODDP

SCPW-21-0000323

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

ANNETTE M. KELEPOLO, Respondent,

vs.

GRACIANO KEHOPU FERNANDEZ, NANCY FERNANDEZ,
GRACE LYN W. FERNANDEZ-CHISHOLM, DAMIEN K. KAINA, JR.,
FRANK I. KAINA, JOSEPH T. KAINA, PATRICK KAINA,
TAMARA SMITH-KAUKINI, Petitioners.

ORIGINAL PROCEEDING
(CAAP-18-0000138; CIVIL NO. 16-1-0453(1))

ORDER (1) DENYING PETITION FOR WRIT OF MANDAMUS, AND
(2) DISMISSING MOTION FOR EXTENSION OF TEMPORARY STAY PENDING
REVIEW OF PETITION FOR WRIT OF MANDAMUS
(By: Recktenwald, C.J., Nakayama, McKenna, Wilson, and Eddins, JJ.)

Upon consideration of petitioners Grace L.W. Fernandez-Chisholm and Nancy Fernandez’s (1) petition for writ of mandamus,” filed on May 13, 2021, and (2) motion for extension of temporary stay pending review of petition for writ of mandamus, filed on May 14, 2021, and the record, petitioners fail to demonstrate that the Intermediate Court of Appeals committed a flagrant and manifest abuse of discretion in setting the supersedeas bond amount as delineated in its April 12, 2021 order in CAAP-18-0000138. See Kelepolo v. Fernandez, 148 Hawai‘i 182, 468 P.3d 196 (2020). The requested extraordinary writ is

therefore not warranted. See Kema v. Gaddis, 91 Hawai'i 200, 204-05, 982 P.2d 334, 338-39 (1999) (mandamus will not lie to interfere with or control the exercise of the court's 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 he or she has a legal duty to act). Accordingly,

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

IT IS HEREBY FURTHER ORDERED that the motion for an extension of the stay pending review of the petition for writ of mandamus is dismissed.

DATED: Honolulu, Hawai'i, May 17, 2021.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Michael D. Wilson

/s/ Todd W. Eddins

