

**Electronically Filed
Supreme Court
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SCPW-24-0000356

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

IN RE THOMAS SCHMIDT

ORIGINAL PROCEEDING

ORDER

(By: Recktenwald, C.J., McKenna, Eddins, Ginoza, and Devens, JJ.)

On May 6, 2024, Petitioner Thomas Schmidt filed a letter requesting to be removed from the vexatious litigant list which was docketed as a petition for writ of mandamus (Petition). Citing to Hawai‘i Revised Statutes (HRS) § 634J-7 (2016), Schmidt contends he is entitled to be removed from the vexatious litigant list maintained by the clerk of the supreme court because he has not initiated a lawsuit for fifteen years.

The court takes judicial notice of the vexatious litigant list marked “Updated: 08/29/2024” which is available on the Judiciary’s website at <https://www.courts.state.hi.us/> under the

"Legal References" menu at "Vexatious Litigants." On this list, Schmidt is referenced as a vexatious litigant as follows:

Name of Litigant:	Court - Order was Filed in:	Case Number:
Schmidt, Thomas F.	Third Circuit Court (Kona)	Civ 03-1-0038K
Schmidt, Thomas	Third Circuit Court (Kona)	Civ 04-1-0004K
Schmidt, Tom	Third Circuit Court	Admin Order
Schmidt, Thomas F.	Third Circuit Court	Civ 03-1-0038K

We disagree with Schmidt's interpretation of Chapter 634J of the Hawai'i Revised Statutes. We are not persuaded that a prefiling order entered by a court under HRS § 634J-7 which does not expire on its own terms, would otherwise lose effect because the person declared a vexatious litigant, by virtue of the passage of time, no longer meets the statutory definition of "vexatious litigant" set forth at HRS § 634J-1 (2016).

In order for Schmidt to establish that he is entitled to removal from the vexatious litigant list maintained by the clerk of the supreme court, the burden is on Schmidt to establish that any order declaring him a vexatious litigant has been set aside, or is no longer in effect. Based on the information submitted by Schmidt, we are not persuaded that Schmidt has established a clear and indisputable right to the relief requested.

We deny the petition without prejudice. Any future request by Schmidt addressed to this court that requests his removal from the vexatious litigant list shall be filed by the clerk of

the supreme court in this case. The filing fee for the petition is waived.

DATED: Honolulu, Hawai'i, February 19, 2025.

/s/ Mark E. Recktenwald

/s/ Sabrina S. McKenna

/s/ Todd W. Eddins

/s/ Lisa M. Ginoza

/s/ Vladimir P. Devens

