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SCAD-22-0000623

IN THE SUPREME COURT OF THE STATE OF HAWAII

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OFFICE OF DISCIPLINARY COUNSEL, Petitioner,

vs.

DEXTER K. KA'IAMA, Respondent [Bar No. 4249]

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ORIGINAL PROCEEDING  
(ODC Case No. 18-0339)

ODC'S COMBINED OPPOSITION TO MOTION TO DISMISS PETITION [RE:  
DKT. #7] and MOTION FOR REQUEST OF JUDICIAL NOTICE [RE: DKT.  
#16];

AND

CERTIFICATE OF SERVICE

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SCAD-22-0000623

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OFFICE OF DISCIPLINARY COUNSEL, Petitioner,

vs.

DEXTER K. KA'IAMA, Respondent [Bar No. 4249]

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ORIGINAL PROCEEDING  
(ODC Case No. 18-0339)

**ODC'S COMBINED OPPOSITION TO MOTION TO DISMISS PETITION [DKT. #7], and MOTION FOR REQUEST OF JUDICIAL NOTICE [RE: DKT. #16]**

This Memorandum is submitted in opposition to both Respondent Dexter K. Ka'iama's (KA'IAMA) (1) "Motion to Dismiss Petition for the Immediate Suspension from the Practice of Law . . ." ("Motion to Dismiss" dkt. ##7-13), and (2) "Motion for Request of Judicial Notice in Support of Respondent's Motion to Dismiss Petition . . ." ("Motion for Judicial Notice" dkt. ##16-21).

KA'IAMA's motions seek the scheduling of an evidentiary hearing for Petitioner Office of Disciplinary Counsel (ODC) to provide rebuttable evidence that the Hawaiian Kingdom ceases to exist as a State in light of the evidence cited in KA'IAMA's Motion to Dismiss. KA'IAMA asserts that this Court is mandated to dismiss the instant proceedings unless ODC provides such rebuttable evidence in an evidentiary hearing.

**I. KA'IAMA's Motion to Dismiss should be denied**

The supreme court of the State of Hawai'i holds the power to examine, admit, and reinstate attorneys to practice law in the courts of the State who have taken the prescribed oath of office. Hawai'i Revised Statutes (HRS) §605-1 (2019). The supreme court has the sole power to revoke or suspend the law license of any such practitioner. *Id.*

The following is the oath of office to be taken and subscribed by each attorney admitted to practice law in this jurisdiction:

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of the State of Hawai'i, and that I will at all times conduct myself in accordance with the Hawai'i Rules of Professional Conduct. As an officer of the courts to which I am admitted to practice, I will conduct myself with dignity and civility towards judicial officers, court staff, and my fellow professionals. I will faithfully discharge my duties as attorney, counselor, and solicitor in the courts of the state to the best of my ability, giving due consideration to the legal needs of those without access to justice.

Rules of the Supreme Court of the State of Hawai'i (RSCH) Rule 1.5 (emphasis added).

Any attorney admitted to practice law in this state is subject to the exclusive disciplinary jurisdiction of the supreme court and the Disciplinary Board. RSCH Rule 2.1.

The Hawai'i Rules of Professional Conduct (HRPC) govern the conduct of all Hawai'i attorneys. RSCH Rule 2.2. Disciplinary Counsel is conferred with the power and duty to investigate all matters involving alleged attorney misconduct. RSCH Rule 2.6. Disciplinary Counsel may compel by subpoena the attendance of a respondent, and the production of documents. RSCH Rule 2.12.

KA'IAMA is an attorney that was admitted to practice law in the courts of the State of Hawai'i by the Supreme Court of the State of Hawai'i in 1986. KA'IAMA presumably took the oath quoted above.

An ODC complaint regarding KA'IAMA was made on November 27, 2018.<sup>1</sup> KA'IAMA has demonstrated an ongoing unwillingness to comply with ODC's subpoenas and requests for information related to ODC matter no. 18-0339, which is detailed in ODC's pending "Petition for the Immediate Suspension of Respondent from the Practice of Law Pursuant to RSCH Rule 2.12A" (dkt. #1).

Since August 25, 2022, KA'IAMA has filed at least four motions<sup>2</sup> before both the supreme court and Disciplinary Board, all

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<sup>1</sup> ODC matter no. 18-0339.

<sup>2</sup> "Motion to Dismiss Subpoena Dated August 22, 2022, Pursuant to HRCPC 12(B)(2) and the *Lorenzo* Principle, and to schedule an Evidentiary Hearing, or in the Alternative, Motion for Protective Order" filed 8/25/22 before the Supreme Court of the State of Hawai'i, SCPW-22-0000511, dkt. #1.

"Motion to Dismiss Subpoena Dated August 31, 2022, Pursuant to

of which proffer nearly identical arguments, and all of which have been denied.<sup>3</sup> On October 26, 2022, the same date that KA'IAMA filed the instant motion, he also filed a "Petition for Writ of Mandamus or Extraordinary Writ Directed to the Chairperson of the Disciplinary Board of the Hawai'i Supreme Court" and a "Motion for Request of Judicial Notice in Support of Petitioner's Request for Writ of Mandamus Pursuant to Rule 201, Hawai'i Rules of Evidence". See: SCPW-22-0000634. Both the petition for writ and motion are still pending before this court.

KA'IAMA has not, in either the instant motion or any other motion, argued that his license to practice law was issued by any entity other than the supreme court of the State of Hawai'i.

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HRCF 12(B)(2) and the *Lorenzo* Principle, and to Schedule an Evidentiary Hearing, or in the Alternative, Motion for Protective Order" filed 9/6/22 before the Disciplinary Board. Copy attached as Exhibit 6 to SCPW-22-0000634, dkt. #10.

"Motion for Request of Judicial Notice in Support of Respondent's Motion to Dismiss Subpoena Dated August 31, 2022, Pursuant to HRCF 12(B)(2) and the *Lorenzo* Principle, and to Schedule an Evidentiary Hearing, or in the Alternative, Motion for Protective Order" filed 9/6/22 before the Disciplinary Board. Copy attached as Exhibit 7 to SCPW-22-0000634, dkt. #11.

"Motion to Alter or Amend Judgment Dated September 13, 2022, Pursuant to HRCF 59(e)" filed 9/21/22 before the Disciplinary Board. Copy attached as Exhibit 10 to SCPW-22-0000634, dkt. #15.

<sup>3</sup> See: Orders denying and clarifying SCPW-22-0000511, dkt. #7 and #9; Board order denying motion, exhibit to SCPW-22-0000634, dkt. #13; Board order denying reconsideration, exhibit to SCPW-22-0000634, dkt. #16.

Arguments as to the existence of the Hawaiian Kingdom are irrelevant to this proceeding, which concerns a license to practice law; a privilege that is conferred and revoked only by the supreme court of the State of Hawai'i. HRS § 605-1.

Even, assuming *arguendo*, that KA'IAMA is somehow licensed to practice law by a Hawaiian Kingdom,<sup>4</sup> it would change nothing with regard to his duty to submit to the jurisdiction of the Supreme Court of the State of Hawai'i, and its disciplinary system. Many lawyers are admitted to multiple jurisdictions, but if they practice, or offer to practice law in the State of Hawai'i, they are subject to the jurisdiction of this court. HRPC Rule 8.5(a) ("[a] lawyer admitted . . . to practice in the State of Hawai'i is subject to the disciplinary authority of the Hawai'i Supreme Court and the Disciplinary Board of the Hawai'i Supreme Court").

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<sup>4</sup> As noted by the United States District Court, District of Hawai'i in a recent decision:

However, "Hawaii is a state of the United States . . . . The Ninth Circuit, this court, and Hawaii state courts have rejected arguments asserting Hawaiian sovereignty." . . . ("[T]here is no factual (or legal) basis for concluding that the [Hawaiian] Kingdom exists as a state in accordance with recognized attributes of a state's sovereign nature.") . . . As such, Plaintiff's claims are "so patently without merit that the claim[s] require[] no meaningful consideration."

*Hawaiian Kingdom v. Biden, et al.*, 2022 WL 2079649, \*2 (D. Haw. 2022)(internal citations omitted).

ODC reiterates that KA'IAMA has failed to cooperate in its disciplinary investigation. KA'IAMA's refusal to submit to the jurisdiction of the supreme court over matters solely relating to his Hawai'i state law license affects the legal profession, impugns the integrity of the Hawai'i judicial system, and casts doubt on KA'IAMA's fitness to practice law in the courts of the State of Hawai'i.

**II. KA'IAMA's Motion for Judicial Notice should be denied**

As to KA'IAMA's Motion for Judicial Notice, the restatements of law, treaties, Hague convention, lists of cases, case summaries, legal articles and memoranda, and various declarations filed in unrelated litigation are irrelevant to the instant proceedings, and the request for judicial notice of these documents should be denied in its entirety.

**III. Conclusion**

Based on the foregoing, ODC respectfully requests that this Court issue an order denying KA'IAMA's Motion to Dismiss and Motion for Judicial Notice.

ODC continues to assert that KA'IAMA's conduct falls clearly within the ambits of RSCH Rule 2.12A, and requests that this court issue an order directing KA'IAMA to appear within ten (10) days of service of said order to inform the Court as to why he should not

be immediately suspended from the practice of law due to his failure to cooperate with ODC's disciplinary investigation.

ODC further requests that upon the Court's determination that KA'IAMA's response to the RSCH Rule 2.12A order is unsatisfactory or upon KA'IAMA's failure to timely file a response, that this Honorable Court enter an order indefinitely suspending KA'IAMA from the practice of law.

DATED: November 3, 2022.

OFFICE OF DISCIPLINARY COUNSEL



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ALANA L. BRYANT  
Deputy Disciplinary Counsel



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ORIGINAL PROCEEDING  
(ODC Case No. 18-0339)

**CERTIFICATE OF SERVICE**

1. ODC'S OPPOSITION TO MOTION TO DISMISS PETITION [RE: DKT. #7],  
and MOTION FOR REQUEST OF JUDICIAL NOTICE[RE: DKT. #16]

I hereby certify that a true and correct copy of the above listed documents were duly served on those individuals or entities identified on the below service list, as indicated by either (1) JEFS/JIMS electronic filing, (2) by personal service, or by (3) U.S. First Class mail, postage prepaid.

DATED: November 3, 2022.

OFFICE OF DISCIPLINARY COUNSEL



ALANA L. BRYANT

Deputy Disciplinary Counsel

**SERVICE LIST:**

***By JEFS/JIMS electronic filing:***

BRADLEY R. TAMM ([bradley.r.tamm@dbhawaii.org](mailto:bradley.r.tamm@dbhawaii.org))  
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***By personal service:***

n/a

***By U.S. First Class mail, postage prepaid:***

DEXKTER K. KA'IAMA  
1486 Akeke Place  
Kailua, Hawaii 96734

Respondent