

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

Shanlyn Alohakeao Souza Park
Shanlyn Alohakeao Souza
Shan Park (nickname)
Lyn Souza (childhood nickname)

2. **Position**: State the position for which you have been nominated.

United States District Judge, United States District Court, District of Hawaii

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

First Circuit Court
Ka'ahumanu Hale
777 Punchbowl Street
Honolulu, Hawai'i 96813

4. **Birthplace**: State year and place of birth.

1969; Honolulu, Hawai'i

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1991 – 1995, William S. Richardson School of Law, University of Hawai'i; J.D., 1995

1987 – 1991, Chaminade University of Honolulu; B.A. in English (*cum laude*), 1991

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2021 – present

State of Hawai'i Judiciary
777 Punchbowl Street
Honolulu, Hawai'i 96813
Circuit Court Judge, First Circuit, State of Hawai'i

2021
Gallagher Kane Amai & Reyes
745 Fort Street Mall, Suite 1550
Honolulu, Hawai'i 96813
Of Counsel

2017 – 2021
McCorrison Miller Mukai MacKinnon LLP
500 Ala Moana Boulevard, Building 5, 4th Floor,
Honolulu, Hawai'i 96813
Partner (2019 – 2021)
Of Counsel (2017 – 2018)

1997 – 2017
Federal Public Defender, District of Hawai'i
300 Ala Moana Boulevard, Room 7-104
Honolulu, Hawai'i 96850
Senior Litigator (2013 – 2017)
Assistant Federal Public Defender (1997 – 2013)

1996 – 1997
Hisaka Stone & Goto
737 Bishop Street
Honolulu, Hawai'i 96813
Associate Attorney

1993 – 1996
United States Magistrate Judge Francis I. Yamashita, District of Hawaii
300 Ala Moana Boulevard, Room C-338
Honolulu, Hawai'i 96850
Law Clerk (1995 – 1996)
Extern (1993 – 1995) (uncompensated)

1994 – 1995
Hawai'i Civil Rights Commission
830 Punchbowl Street
Honolulu, Hawai'i 96813
Law Clerk

1992 – 1993; 1990 – 1991
Tam & O'Conner

(Formerly Moon, O'Connor, Tam & Yuen)
220 South King Street, 20th Floor
Honolulu, Hawai'i 96813
Law Clerk (1992 – 1993)
Receptionist/Secretary (1990 – 1991)

Teaching Affiliations:

Spring Semesters 2001 – 2006
William S. Richardson School of Law, University of Hawai'i
2515 Dole Street
Honolulu, Hawai'i 96822
Adjunct Professor

Other Affiliations:

2018 – 2023
Egan Inoue Fit Body Bootcamp
1212 Punahou Street
Honolulu, Hawai'i 96826
Volunteer Trainer (2020 – 2023)
Trainer (2018 – 2020)

2017 – 2021
United States District Court, District of Hawaii
300 Ala Moana Boulevard, Room C-338
Honolulu, Hawai'i 96850
Criminal Justice Panel Attorney (CJA)

Other Affiliations (uncompensated):

2017 – 2021
United States District Court, District of Hawai'i
300 Ala Moana Boulevard, Room C-338
Honolulu, Hawai'i 96850
Lawyer Representative (2019 – 2021)
CJA Representative for the Kapilipono Program (2019 – 2020)
Pro Bono Counsel (2020)

2021
Hawai'i State Bar Foundation
1100 Alakea Street
Honolulu, Hawai'i 96813
Board Member

2021

Legal Aid Society of Hawai'i
924 Bethel Street
Honolulu, Hawai'i 96813
Board Member

2008 – 2021
Project Focus Hawai'i
(Organization has ceased operating)
Honolulu, Hawai'i
Vice President and Secretary

2011 – 2016
Sacred Hearts Academy Board of Directors
3253 Waialae Avenue
Honolulu, Hawai'i 96816
Chairman (2015 – 2016)
Vice Chairman (2014 – 2015)
Board Member (2011 – 2014)

2009 – 2010
Le Jardin Academy Parent Facility Association
917 Kalaniana'ole Highway
Kailua, Hawai'i 96734
Junior School Representative

2006 – 2010
The Research Corporation of the University of Hawai'i
1601 East-West Road, 4th Floor Burns Hall, Makai Wing
Honolulu, Hawai'i 96848
Board Member

2007 – 2010
HUGS Help, Understanding & Group Support
3636 Kilauea Avenue
Honolulu, Hawai'i 96816
Board Member

1994 – 1995
William S. Richardson School of Law, University of Hawai'i, Student Bar Association
2515 Dole Street
Honolulu, Hawai'i 96822
President

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for

selective service.

I did not serve in the military. I was not required to register for the selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

United States District Court, District of Hawaii, special recognition for providing pro bono services (2021)

Sisters of the Sacred Hearts, recognition for outstanding service as a board member (2017)

Chaminade University of Honolulu
Graduated *cum laude* (1991)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Access to Justice, Attorney Volunteer (2017 – 2021)

Federal Bar Association – Hawai‘i Chapter (2018 – present)

Hawai‘i State Bar Association (1995 – present)

Hawai‘i State Bar Foundation, Board Member (2021)

Legal Aid Society of Hawai‘i, Board Member (2021)

National Asian Pacific American Bar Association (2020 – present)

Native Hawaiian Bar Association (2023 – present)

United States District Court, District of Hawaii, Lawyer Representative (2019 – 2021)

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Hawai‘i, 1995

There have been no lapses in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

Supreme Court of the United States, 2002
United States Court of Appeals for the Ninth Circuit, 1998
United States District Court, District of Hawaii, 1995

There have been no lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Daughters of Hawai'i, Member and Volunteer (2008 – present)

Elks Lodge 616 (2023 – present)

Ka Ulukoa Volleyball Institute, Team Parent (2013 – 2021)

Mid-Pacific Country Club (2019 – present)

The Pacific Club (2019 – present)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, none of the organizations listed above currently discriminates or formerly discriminated on the basis of race, sex, religion, national origin either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements:**

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

None.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

None.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

October 27, 2021: I delivered a virtual speech before the Senate Committee on Judiciary regarding my judicial nomination for Circuit Court Judge for the First Circuit, State of Hawai‘i. Video available at <https://www.youtube.com/watch?v=uHJL9EVNou4&t=4973s>.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

I have searched my files and electronic databases in an effort to identify events responsive to this question. I have located the events listed below, but there may be others I have been unable to identify.

April 1, 2023, and April 11, 2022: Mock Court Judge, Hawai‘i State Bar Association, Young Lawyer’s Division (HSBA YLD) Mock Trial, Honolulu, Hawai‘i. I judged the HSBA YLD high school mock trial competitions in the statewide semi-final round. I have no notes, transcript, or recording. The address for the HSBA YLD is 1100 Alakea Street, Honolulu, Hawai‘i 96813.

January 11, 2023: Presenter, “How to prepare a closing argument,” Hawai‘i Federal Trial Academy, Hawai‘i Chapter of the Federal Bar Association and the United States District Court, District of Hawaii, Honolulu, Hawai‘i. Power Point supplied.

August 2, 2022 and June 27, 2017: Speaker, Changing Faces Women’s Leadership Seminar, East-West Center, Honolulu, Hawai‘i. The speech was on five key qualities of being a good leader. I have no notes, transcript, or recording. The address for the East-West Center is 1601 East-West Road, Honolulu, Hawai‘i 96848.

April 11, 2022: Speaker, Pauoa Elementary School Career Day, Honolulu, Hawai‘i. I spoke to the kindergarten class about the responsibilities and duties of a state court judge. I have no notes, transcript, or recording. The address for Pauoa Elementary School is 2301 Pauoa Road, Honolulu, Hawai‘i 96813.

February 11, 2022: Keynote Speaker, United States District Court, District of Hawaii Kapilipono Program, Honolulu, Hawai‘i. I spoke at the program’s graduation ceremony and talked about each graduate’s achievements and the panel member’s hopes for their futures. I have no notes, transcript, or recording. The address for the United States District Court, District of Hawaii is 300 Ala Moana Boulevard, Room C-338, Honolulu, Hawai‘i 96850.

December 16, 2021: Speaker, Investiture of Shanlyn A. S. Park, Circuit Court Judge for the First Circuit, State of Hawai‘i, Honolulu, Hawai‘i. I acknowledged and thanked the individuals who supported me in my career and my nomination. I have no notes or transcript, or recording. My speech occurred at the Hawai‘i Supreme Court and its address is 417 South King Street, Honolulu, Hawai‘i 96813.

October 11, 2021: Speaker, Board of the Hawai‘i State Bar Association, Honolulu, Hawai‘i. I spoke to the board about my qualifications to be a judge. I have no notes, transcript, or recording. The address for the Hawai‘i State Bar Association is 1100 Alakea Street, Suite 1000, Honolulu, Hawai‘i 96813.

October 18, 2016: Speaker, Sacred Hearts Academy Field Trip and Mock Trial, United States District Court, District of Hawaii, Honolulu, Hawai‘i. I spoke regarding how I became a federal public defender and my role as defense counsel. I also assisted the students with their mock trial. I have no notes, transcript or recording, but press coverage is supplied. The address for Sacred Hearts Academy is 3253 Waialae Avenue, Honolulu, Hawai‘i 96816.

June 24, 2016: Presenter, “How to Get Your Social Media, Email and Text Evidence Admitted and Keep Theirs Out,” National Business Institute Seminar, Honolulu, Hawai‘i. The presentation discussed ways to authenticate and admit social media, email, and text evidence. I have no notes, transcript, or recording.

The address for the NBI Planning Department is 1218 McCann Drive, Altoona, Wisconsin 54720.

February 20, 2016: Presenter, Federal Public Defender, District of Hawaii (FPD) 2016 Criminal Defense Conference, Honolulu, Hawai'i. I discussed significant appellate cases decided in 2015-2016 and issues involving DNA evidence. I have no notes, transcript, or recording. The address for the FPD is 300 Ala Moana Boulevard, Room 7-104, Honolulu, Hawai'i 96850.

October 18, 2014: Presenter, Federal Public Defender, District of Hawaii (FPD) 2014 Criminal Defense Conference, Honolulu, Hawai'i. My co-presenter, Peter C. Wolff, Jr., Federal Defender, and I discussed significant appellate cases decided in 2013-2014. I have no notes, transcript, or recording. The address for the FPD is 300 Ala Moana Boulevard, Room 7-104, Honolulu, Hawai'i 96850.

July 20, 2013: Presenter, Federal Public Defender, District of Hawaii (FPD) 2013 Criminal Defense Conference, Honolulu, Hawai'i. My co-presenter, Carol Miyashiro, Chief Pretrial Services Officer, and I gave a presentation on detention hearings. I have no notes, transcript, or recording. The address for the FPD is 300 Ala Moana Boulevard, Room 7-104, Honolulu, Hawai'i 96850.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

William Cole, *Cuts might jeopardize U.S. public defenders in the isles*, HONOLULU STAR ADVERTISER (July 1, 2013). Copy supplied.

William Cole, *Thousands face 20% less pay*, HONOLULU STAR ADVERTISER (June 23, 2013). Copy supplied.

Nancy Arcayna, *Parents can join action at sports clinics*, HONOLULU, STAR ADVERTISER (Apr. 30, 2013). Copy supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

Since 2021, I have served as a Circuit Court Judge for the First Circuit, State of Hawai'i. Governor David Ige nominated me in September 2021 for a ten-year term and I was confirmed by the state senate in October 2021. I took the oath of office in December 2021. The First Circuit Court is one of four circuit courts in Hawai'i. It is a trial court of general jurisdiction in criminal and civil cases. In December 2021, I was first assigned to the Family Court Criminal Division and in June 2023 I was reassigned to the Circuit Court Criminal Division.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment?

I have presided over 21 trials – 17 when I was on the Family Court Criminal Division, and four since I have been on the Circuit Court Criminal Division.

- i. Of these cases, approximately what percent were:

jury trials:	100%
bench trials:	0%

- ii. Of these cases, approximately what percent were:

civil proceedings:	0%
criminal proceedings:	100%

- b. Provide citations for all opinions you have written, including concurrences and dissents.

As a Circuit Court Judge for the First Circuit, State of Hawai‘i, Criminal Division and Family Court Criminal Division, the vast majority of my decisions are issued from the bench in open court, and recorded verbatim using software called “For The Record” in addition to court clerk minutes. Moreover, all of my written opinions are unpublished. Case files are stored in the State of Hawai‘i’s case management system. I estimate that I have issued more than a hundred written opinions.

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature of the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (4) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *State of Hawai‘i v. Kameenui, also known as Fuentes*, Case No. 1CPC-22-0001592 (Circuit Court of the First Circuit State of Hawai‘i)

The defendant was charged with felony assault in the second degree based on a physical altercation that caused injury to the complaining witness. The complaining witness was the ex-wife of the defendant’s son and the altercation occurred in the defendant’s home. In June 2023, I presided over case-management related hearings and the jury trial.

After being presented with credible evidence that the defendant acted in self-defense, the jury returned a verdict on June 30, 2023, finding the defendant not guilty.

Counsel for the State:

Chase S. Sakai
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:

Michelle Muraoka
1130 North Nimitz Highway, Suite A-254
Honolulu, HI 96817
(808) 586-2300

2. *State of Hawai'i v. Palmer*, Case No. 1CPC-19-0000446 (Circuit Court of the First Circuit State of Hawai'i)

The defendant was charged with felony assault in the second degree based on a physical altercation involving the defendant and the complaining witness which occurred outside of a retail store. In June 2023, I presided over case-management related hearings and the jury trial.

After being presented with credible evidence that defendant acted in self-defense, the jury returned a verdict on June 23, 2023, finding the defendant not guilty.

Counsel for the State:

Franklin T. Fegurgur
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:

Okechukwu K. Amadi
1130 North Nimitz Highway, Suite A-254
Honolulu, HI 96817
(808) 586-2300

3. *State of Hawai'i v. Tanaka*, Case No. 1FFC-22-0000577 (Family Court of the First Circuit Court, Criminal Division, State of Hawai'i)

The defendant was charged with a violation of an order for protection based on an allegation that, after the conclusion of a family court proceeding and while exiting the courthouse, the defendant came within 100 feet of the complaining witness, thereby violating the protective order. In 2022 to 2023, I presided over case-management related hearings in this matter.

On September 23, 2022, the defendant filed a motion to dismiss for de minimis

violation and a motion to dismiss based on insufficient evidence and lack of probable cause. On October 5, 2022, I presided over an evidentiary hearing and heard testimony from several witnesses. I determined that the alleged violation was not de minimis and there was probable cause for the charge, and therefore, I denied the motions. Orders supplied.

On May 15, 2023, the defendant pled no contest to the charge and was sentenced to one day imprisonment and one year of probation.

Counsel for the State:

Melody Kaohu
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:

Teal Takayama
1130 North Nimitz Highway, Suite A-254
Honolulu, HI 96817
(808) 586-2300

4. *State of Hawai'i v. Dicion*, Case No. 1FFC-22-0000164 (Family Court of the First Circuit Court, Criminal Division, State of Hawai'i)

The defendant was charged with a violation of an order for protection because, believing he had been given permission by the property owner, the defendant resided in a shed that was located within 100 feet of the complaining witness's residence. In 2022, I presided over case-management related hearings in this matter and the jury trial.

The trial commenced on August 3, 2022; however, the jury was unable to reach a unanimous verdict and a mistrial was declared. On August 24, 2022, the defendant filed a motion to dismiss with prejudice arguing that as a result of the jury's inability to reach a decision, which was 11-to-1 for not guilty, the case should be dismissed pursuant to *State v. Moriwaki*, 65 Haw. 47, 647 P.2d 705 (1982), which held that the trial court has the inherent authority to dismiss an indictment after a mistrial caused by a hung jury. On May 9, 2023, after hearing arguments on the motion, I granted the motion to dismiss and the case was dismissed with prejudice.

Counsel for the State:

Michelle Kim
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:

Jason A. Iokona Baker (Former Deputy Public Defender)
Department of Corporation Counsel
530 South King Street, Room 110
Honolulu, HI 96813
(808) 768-5014

5. *State of Hawai‘i v. Masuda*, Case No. 1FFC-22-0000761 (Family Court of the First Circuit Court, Criminal Division, State of Hawai‘i)

The defendant was charged with abuse of family or household member based on an allegation that he and the complaining witness, his wife, were involved in a physical altercation. In 2022 to 2023, I presided over case-management related hearings in this matter and the jury trial.

After hearing testimony from the complaining witness and the defendant about how and why the physical altercation occurred and that the defendant acted in self-defense, the jury returned a verdict on March 9, 2023, finding the defendant not guilty.

Counsel for the State:

Mark Shimizu
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:

Carmel Kwock Esq.
1001 Bishop Street, Suite 580
Honolulu, HI 96813
(808) 291-2141

6. *State of Hawai‘i v. Tanaka*, Case No. 1FFC-22-0000465 (Family Court of the First Circuit Court, Criminal Division, State of Hawai‘i)

The defendant was charged with a violation of an order for protection for allegedly violating the distance requirement of the protection order when he remained in a gym and continued to work out even after learning that the complaining witness was at the same facility. In 2022 to 2023, I presided over case-management related hearings in this matter and the jury trial.

After hearing the testimony from a gym employee, the complaining witness, and the defendant about the facts and circumstances of why the defendant did not leave the gym after the complaining witness arrived, the jury returned a verdict on January 26, 2023, finding the defendant not guilty.

Counsel for the State:
Cherise Braxton-Brooks
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:
Teal Takayama
1130 North Nimitz Highway, Suite A-254
Honolulu, HI 96817
(808) 586-2300

7. *State of Hawai‘i v. Ward*, Case No. 1FFC-22-0000111 (Family Court of the First Circuit Court, Criminal Division, State of Hawai‘i)

The defendant was charged with a violation of a temporary restraining order based on the allegation that the defendant violated the protection order when he went to the home of the complaining witness to retrieve his personal property. The defendant was accompanied by a third party but not a police escort. In 2022, I presided over case-management related hearings and the jury trial.

After hearing the testimony from the complaining witness, the third-party witness, the police, and the defendant, the jury returned a verdict on December 9, 2022, finding the defendant not guilty.

Counsel for the State:
Joel Garner
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:
Mark S. Kawata
1221 Kapiolani Boulevard, Suite 808
Honolulu, HI 96814
(808) 591-6488

8. *State of Hawai‘i v. Wicks*, Case No. 1CPC-19-0000792 (Circuit Court of the First Circuit State of Hawai‘i)

The defendant was charged with the felony offenses of theft in the second degree, identity theft in the second degree, and unauthorized possession of confidential personal information based on the allegation that he used a stolen credit card to purchase items at a store. In 2022, the case was reassigned to me because of court congestion. I presided over case-management related hearings and two jury trials.

I presided over the first trial in this case which began on October 19, 2022. Due to a communication that was received after the jury had commenced deliberations indicating that a juror recognized individuals in a video that had been admitted into evidence, a mistrial was declared.

I presided over the second trial in this case which began on November 9, 2022. During a bench conference that took place out of the presence of the jury, the lapel microphone that the prosecuting attorney was wearing inadvertently transmitted into the courtroom. After conducting individual voir dire of the jury to determine whether the jury heard the prosecutor's comments during the bench trial, a mistrial was declared.

This case is still pending; however, it has been reassigned to the original circuit court judge as the defendant has other cases pending before that judge.

Counsel for the State:

George A. Parrott III
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:

Doris Lum, Esq.
1001 Bishop Street, Suite 710
Honolulu, HI 96813
(808) 762-7644

9. *State of Hawai'i v. Esperago*, Case No. 1FFC-22-0000472 (Family Court of the First Circuit Court, Criminal Division, State of Hawai'i)

The defendant was charged with three counts of violation of an order for protection based on allegations that the defendant violated the distance requirement of the protection order. In 2022, I presided over case-management related hearings.

On September 22, 2022, the defendant filed a motion for severance of charges arguing that the three counts in the complaint should be severed for the purpose of trial because the charged offenses were based on factually separate and distinct conduct that allegedly occurred on three separate occasions, and that if they were tried together, the defendant would be prejudiced. After hearing oral argument, I denied the motion. Order supplied.

As the defendant passed away, this case was dismissed with prejudice.

Counsel for the State:

Michelle Kim

1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:

Melanie R. Ragamat
1130 North Nimitz Highway, Suite A-254
Honolulu, HI 96817
(808) 586-2300

10. *State of Hawai‘i v. Sanders*, Case Nos. 1FFC-22-0000180, 1FFC-22-0000319;
and 1FFC-22-0000328 (Family Court of the First Circuit Court, Criminal
Division, State of Hawai‘i)

In 1FFC-22-0000180, the defendant was charged with two counts of violation of a temporary restraining order. In 1FFC-22-0000319 and 1FFC-22-0000328, the defendant was charged with a violation of an order for protection. The allegations were based on the defendant being found three separate times sleeping outside of the residence of the complaining witness, his grandmother, thereby violating the distance requirement of the protection order. In 2022, I presided over case-management related hearings in these matters and three jury trials.

With respect to 1FFC-22-0000180, after hearing the credible testimony of the complaining witness, the jury returned a verdict on July 2, 2022, finding the defendant guilty. On July 26, 2022, I sentenced defendant to 70 days imprisonment and two years of probation.

With respect to 1FFC-22-0000319, after hearing the credible testimony of the complaining witness, the jury returned a verdict on August 18, 2022, finding the defendant guilty. On August 23, 2022, I sentenced defendant to 100 days imprisonment and two years of probation.

With respect to 1FFC-22-0000328, after hearing the credible testimony of the complaining witness, the jury returned a verdict on September 15, 2022, finding the defendant guilty. On September 20, 2022, I sentenced defendant to 126 days imprisonment and two years of probation.

Counsel for the State:

1FFC-22-0000180
Jamie Yamamoto (Former Deputy Prosecuting Attorney)
335 Merchant Street, Room 213
Honolulu, HI 96813
(808) 586-3040

1FFC-22-0000319
Joel Garner

1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

1FFC-22-0000328
Franklin T. Fegurgur
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:

Alan K. Akao
1130 North Nimitz Highway, Suite A-254
Honolulu, HI 96817
(808) 586-2300

- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
1. *State of Hawai'i v. Badua*, Case No. 1FFC-22-0000153 (Family Court of the First Circuit Court, Criminal Division, State of Hawai'i). Copy supplied.

Counsel for the State:

Chad K.L. Au
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:

Sara Haley
1130 North Nimitz Highway, Suite A-254
Honolulu, HI 96817
(808) 586-2300

Ashlyn Howarth fka Ashlyn Whitbeck (Former Deputy Public Defender)
Colorado State Public Defender
1300 Broadway, Suite 400
Denver, CO 80203
(303) 764-1400

2. *State of Hawai'i v. Dabis*, Case No. 1FFC-21-0000044 and 1FFC-21-0000345 (Family Court of the First Circuit Court, Criminal Division, State of Hawai'i). Copy supplied.

Counsel for the State:
Benjamin Rose
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:
Walter J. Rodby
733 Bishop Street, Suite 2302
Honolulu, HI 96817
(808) 545-5490

3. *State of Hawai'i v. Tanaka*, Case No. 1FFC-22-0000577 (Family Court of the First Circuit Court, Criminal Division, State of Hawai'i). Copy previously supplied in response to Question 13c.

Counsel for the State:
Melody Kaohu
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:
Teal Takayama
1130 North Nimitz Highway, Suite A-254
Honolulu, HI 96817
(808) 586-2300

4. *State of Hawai'i v. Esperago*, Case No. 1FFC-22-0000472 (Family Court of the First Circuit Court, Criminal Division, State of Hawai'i). Copy previously supplied in response to Question 13c.

Counsel for the State:
Michelle Kim
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:
Melanie R. Ragamat
1130 North Nimitz Highway, Suite A-254
Honolulu, HI 96817
(808) 586-2300

5. *State of Hawai'i v. Carriker*, Case No. 1FFC-22-0000128 (Family Court of the First Circuit Court, Criminal Division, State of Hawai'i). Copy supplied.

Counsel for the State:

Chad K.L. Au
1060 Richards Street
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(808) 768-7400

Counsel for the Defendant:

Sara Haley
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Honolulu, HI 96817
(808) 586-2300

6. *State of Hawai'i v. Cichy*, Case No. 1FFC-22-0000169 (Family Court of the First Circuit Court, Criminal Division, State of Hawai'i). Copy supplied.

Counsel for the State:

Benjamin Rose
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:

Alan Akao
1130 North Nimitz Highway, Suite A-254
Honolulu, HI 96817
(808) 586-2300

7. *State of Hawai'i v. Fust*, Case No. 1FFC-22-0000103 (Family Court of the First Circuit Court, Criminal Division, State of Hawai'i). Copy supplied.

Counsel for the State:

Chase S. Sakai
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:

Saisamoa Chee
1130 North Nimitz Highway, Suite A-254
Honolulu, HI 96817
(808) 586-2300

8. *State of Hawai'i v. Haverly*, Case No. 1FFC-22-0000177 (Family Court of the First Circuit Court, Criminal Division, State of Hawai'i). Copy supplied.

Counsel for the State:
Jaymie K. Yamamoto
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:
Alan Akao
1130 North Nimitz Highway, Suite A-254
Honolulu, HI 96817
(808) 586-2300

9. *State of Hawai'i v. Leao*, Case No. 1FFC-22-0000115 (Family Court of the First Circuit Court, Criminal Division, State of Hawai'i). Copy supplied.

Counsel for the State:
Chase S. Sakai
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:
Saisamoa Chee
1130 North Nimitz Highway, Suite A-254
Honolulu, HI 96817
(808) 586-2300

10. *State of Hawai'i v. Mattos*, Case No. 1FFC-22-0000096 (Family Court of the First Circuit Court, Criminal Division, State of Hawai'i). Copy supplied.

Counsel for the State:
Chase S. Sakai
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

Counsel for the Defendant:
Saisamoa Chee
1130 North Nimitz Highway, Suite A-254
Honolulu, HI 96817
(808) 586-2300

e. Provide a list of all cases in which certiorari was requested or granted.

To the best of my knowledge and based upon a review of my records and publicly available legal databases, I have not had any cases in which certiorari was

requested or granted.

- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

To the best of my knowledge and based upon a review of my records and publicly available legal databases, my decisions have never been reversed by a reviewing court, nor have my judgments been affirmed with significant criticism of the substantive or procedural rulings.

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

As a Circuit Court Judge for the First Circuit Criminal Division and Family Court Criminal Division, the vast majority of my decisions are issued from the bench in open court, and recorded verbatim using software called "For The Record" in addition to court clerk minutes. Moreover, all of my written opinions are unpublished. Case files are stored in the State of Hawai'i's case management system.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

I have not issued any significant written opinion on federal or state constitutional issues.

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on any federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:

- a. whether your recusal was requested by a motion or other suggestion by a litigant

or a party to the proceeding or by any other person or interested party; or if you recused yourself *sua sponte*;

- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

The Circuit Court of the First Circuit, State of Hawai‘i assigns cases to circuit judges randomly and does not employ an automatic recusal system. Instead, recusal is determined on a case-by-case basis, applying the Hawai‘i Revised Code of Judicial Conduct. Consistent with the code, I recused myself in the following cases for the following reasons:

State of Hawai‘i v. Opunui and Rodriguez, Case No. 1CPC-21-0001345; *State of Hawai‘i v. Opunui*, Case No. 1PC161001782; *State of Hawai‘i v. Opunui*, Case No. 1PC161001423; and *State of Hawai‘i v. Opunui*, Case No. 1CPC-17-0000915. I recused myself *sua sponte* because while employed with the Federal Public Defender, District of Hawai‘i, I had represented Opunui in a federal criminal matter. After reviewing the Hawai‘i Revised Code of Judicial Conduct, I determined that I should recuse myself from adjudicating Opunui’s state cases and returned the case for reassignment.

State of Hawai‘i v. Bott; Faletogo; Faletogo; Kahawai; Laban, also known as Laman; and Dabaluz, Case No. 1CPC-21-0001525. I recused myself *sua sponte* because Defendants in the case are alleged to have kidnapped, assaulted and threatened various employees at the Office of Hawaiian Affairs (OHA), which I had represented while in private practice. After reviewing the Hawai‘i Revised Code of Judicial Conduct, I determined that I should recuse myself as my impartiality might reasonably be questioned and this issue was incurable. I therefore returned the case for reassignment.

State of Hawai‘i v. Burns, Case No. 1CPC-23-0000590. I recused myself *sua sponte* because after reviewing a motion to suppress, I determined that I personally knew one of the witnesses who would be testifying regarding whether a search warrant should have been obtained and my decision on the motion would be based, in part, on the credibility of that individual. After reviewing the Hawai‘i Revised Code of Judicial Conduct, I determined that I should recuse myself as my impartiality might reasonably be questioned and this issue was incurable. I therefore returned the case for reassignment.

State of Hawai‘i v. Paddock, Case No. 1FFC-22-0000112; *State of Hawai‘i v. Paddock*, Case No. 1FFC-22-0000147; and *State of Hawai‘i v. Paddock*, Case No. 1FFC-23-0000196. An oral motion to recuse was made on the basis that my judicial staff may be called to testify as to an incident that occurred during a court proceeding. After reviewing the Hawai‘i Revised Code of Judicial Conduct, I determined that I should

recuse myself as my impartiality might reasonably be questioned if I had to decide an issue based upon testimony of my judicial staff and this issue was incurable. As the lead judge for the domestic violence division, I directly reassigned the case to another judge.

15. **Public Office, Political Activities and Affiliations:**

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

In 2006, I was appointed by Governor Linda Lingle to serve a four-year term as a Board Member for the Research Corporation of the University of Hawai'i. My term expired in 2010. I have not had any unsuccessful candidacies or nominations for public office.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I volunteered to wave signs and canvass the district for John Yoshimura's 1994 Honolulu City Council Campaign.

I volunteered to wave signs for Linda Lingle's 2006 Governor of Hawai'i Campaign.

16. **Legal Career:** Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I served as a law clerk to the Honorable Francis I. Yamashita, Magistrate Judge, United States District Court, District of Hawaii, from 1995 to 1996.

- ii. whether you practiced alone, and if so, the addresses and dates;

I have never practiced alone.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature

of your affiliation with each;

1996 – 1997
Hisaka Stone & Goto
737 Bishop Street
Honolulu, Hawai‘i 96813
Associate Attorney

1997 – 2017
Federal Public Defender, District of Hawai‘i
300 Ala Moana Boulevard, Room 7-104
Honolulu, Hawai‘i 96850
Senior Litigator (2013 – 2017)
Assistant Federal Public Defender (1997 – 2013)

2017 – 2021
McCorriston Miller Mukai MacKinnon LLP
Building 5, 4th Floor, 500 Ala Moana Boulevard
Honolulu, Hawai‘i 96813
Partner (2019 – 2021)
Of Counsel (2017 – 2018)

2021
Gallagher Kane Amai & Reyes
745 Fort Street Mall Suite 1550
Honolulu, Hawai‘i 96813
Of Counsel

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have never served as a mediator or arbitrator.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

The nature of my law practice has varied over the years. I began my career as a law clerk for Magistrate Judge Francis I. Yamashita, United States District Court, District of Hawaii. After clerking, I was an associate with the law firm of Hisaka Stone & Goto from 1996 to 1997. My work involved a variety of civil subject matters, including commercial disputes, third-party insurance defense and foreclosure. I drafted pleadings and handled discovery in the civil cases assigned to me, and participated in

settlement conferences and court-mandated arbitrations.

From 1997 to 2017, I was a senior litigator/assistant federal defender at the Federal Public Defender, District of Hawai'i and represented indigent federal criminal defendants charged with felony and misdemeanor offenses. I represented defendants through appeals and argued several cases before the United State Court of Appeals for the Ninth Circuit. I filed and argued numerous motions, sentencing memorandums, and appeals and tried 10 felony jury trials and 10 misdemeanor jury trials to verdict.

In 2017, I returned to private practice and became a partner at the law firm of McCorrison Miller Mukai MacKinnon LLP. I focused on commercial disputes, as well as cases involving contested probate matters, real property disputes, third-party insurance defense, and state/federal criminal defense. I drafted and argued pleadings, handled discovery in the civil cases assigned to me, participated in settlement conferences and mediations and second-chaired a non-jury civil trial and an arbitration to verdict. While in private practice, I was appointed to serve on the Criminal Justice Panel for the United States District Court, District of Hawaii and represented indigent defendants. I also provided pro bono services to a plaintiff in a federal civil case and a petitioner in a state probate matter. From 2017 to 2021, I volunteered as an attorney for Access to Justice Program of the State of Hawai'i Judiciary. The purpose of the program is to substantially increase access to justice in civil legal matters for low- and moderate-income residents of the State of Hawai'i.

In 2021, I became Of Counsel to the law firm of Gallagher Kane Amai & Reyes and continued to focus my practice on commercial disputes, as well as cases involving contested probate matters, real property disputes, third-party insurance defense, and state/federal criminal defense. I drafted and argued pleadings, handled discovery in the civil cases assigned to me and participated in settlements conferences and mediations.

Since December 2021, I have served as a Circuit Court Judge for the First Circuit, State of Hawai'i and was assigned to the Family Court Criminal Division and adjudicated domestic violence cases. While assigned to that division, I served as lead judge from December 2022 to May 2023. In June 2023, I was reassigned to the Criminal Division and adjudicate felony criminal matters.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

While at the Federal Public Defender, District of Hawai'i my clients were indigent individuals charged with a federal criminal offense.

While in private practice, my clients included individuals and businesses involved in commercial disputes, individuals or estates that had probate issues and individuals charged with federal or state criminal offenses.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 80% |
| 2. state courts of record: | 20% |
| 3. other courts: | 0% |
| 4. administrative agencies: | 0% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 20% |
| 2. criminal proceedings: | 80% |

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I tried 10 felony federal criminal trials to jury verdict; three as lead counsel, six as co-counsel; and one as stand-by counsel. As sole counsel, I tried 10 federal misdemeanor criminal bench trials. I was also co-counsel for one civil bench trial in state court.

- i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 50% |
| 2. non-jury: | 50% |

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I did not practice before the Supreme Court of the United States.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
 - b. the name of the court and the name of the judge or judges before whom the case was litigated; and
 - c. the individual name, addresses, and telephone numbers of co-counsel and of
 - d. principal counsel for each of the other parties.
1. *The West Molokai Association of Apartment Owners v. Kaluakoi Poolside, LLC*, Case No. 16-0033-A (Dispute Prevention & Resolution Hawai'i, Inc.)

In 2016, the plaintiff sued the defendant to enforce a prior settlement agreement that required the defendant to maintain the common areas of the property the parties shared. As co-counsel for the defendant, I prepared the case for arbitration by drafting pleadings, and conducting written discovery and oral depositions. At the arbitration, I examined witnesses and prepared the closing argument. The arbitration resulted in an order requiring the defendant to maintain the common areas.

Arbitrator:

Judge Joel August (Retired)

Plaintiff's Counsel:

Terrance M. Revere
970 North Kalahea Avenue, Suite A301
Kailua, HI 96734
(808) 791-9550

Co-Counsel for Defendant:

David J. Minkin
500 Ala Moana Boulevard, Building 5, 4th Floor
Honolulu, HI 96813
(808) 529-7400

2. *All Islands Inc. dba Centry 21 All Islands v. Partners E&O Insurance Services, Inc., Tietz, Burns and Wilcox, Ltd., Chartis Specialty Insurance Company*, Civil No. 13-1-0547-02-JPC (First Circuit Court State of Hawai'i)

In 2013, the plaintiff sued its insurer for bad faith after the insurer denied insurance coverage and exposed the plaintiff to a monetary judgment. The plaintiff sought reimbursement for the monetary judgment and punitive damages for the bad faith claim. At the conclusion of the discovery period, I was asked to try the case with co-counsel for Defendant Chartis. In preparing the case for trial, I prepared deposition designations, trial memorandums, and motions in limine. In 2018, a bench trial was held before the Honorable Jeff Crabtree and at the trial, I examined witnesses and prepared the closing

argument brief. Judge Crabtree ruled in favor of the plaintiff. However, after extensive negotiations, the parties settled the litigation.

Judge:

Judge Jeffrey Crabtree

Counsel for Plaintiff:

Alan Van Etten
1003 Bishop Street Suite 1550
Honolulu, HI 96813
(808) 533-1751

Megan Kau
820 Mililani Street
Honolulu, HI 96813
(808) 864-8896

Co-Counsel for Defendants:

Randall Schmitt
500 Ala Moana Boulevard, Building 5, 4th Floor
Honolulu, HI 96816
(808) 529-7300

Peter Olson
1000 Bishop Street, Suite 1200
Honolulu, HI 96813
(808) 521-9200

3. *United States v. Jackson*, Cr. No. 15-00293 SOM-KSC (D. Haw.)

In 2015, I was appointed to represent co-defendant, Jackson, who had been charged with murder that occurred on federal property. Jackson faced a mandatory life sentence, but ultimately received a negotiated sentence of 30 years for her role in the murder based on her willingness to assist prosecutors in obtaining the conviction of her co-defendant. During the time it took to resolve the case, I worked to help Jackson, who suffered from a serious mental health diagnosis, make decisions that were in her best interest and ensured that her mental illness would not impair her ability to be a critical witness for the government. Based upon Jackson's willingness to testify, the co-defendant pled guilty and was sentenced to 35 years of imprisonment.

Judge:

Judge Susan Oki Mollway

Assistant United States Attorneys:

Thomas Brady (Former Assistant United States Attorney)
1060 Richards Street

Honolulu, HI 96813
(808) 768-7400

The Honorable Jill A. Otake (Former Assistant United States Attorney)
300 Ala Moana Boulevard, C-338
Honolulu, HI 96850
(808) 541-1410

4. *United States v. Thornton*, Cr. No. 14-00484 SOM (D. Haw.)

In 2014, the defendant was charged with conspiracy to possess with intent to distribute 50 grams or more of methamphetamine. The defendant faced a mandatory minimum sentence of 10 years and up to life imprisonment. The defendant pled guilty as charged. While the case was pending, the defendant completed a residential substance abuse program, attended college, conducted research for the local university in the area of renewable energy, and published academic articles and conference papers. I prepared an extensive sentencing memorandum that highlighted the incredible achievements the defendant had accomplished since his arrest and argued at sentencing that the defendant was entitled to a lesser sentence. On December 17, 2016, the district court, after reviewing the motion and hearing arguments from counsel, gave a significant downward departure and imposed a sentence of 54 months incarceration and five years' supervised release.

Judge:
Judge Susan Oki Mollway

Assistant United States Attorney:
Chris Thomas
300 Ala Moana Boulevard, Suite 6-100
Honolulu, HI 96850
(808) 541-2850

5. *United States v. Cameron et al.*, Cr. No. 13-1076 JMS, (D. Haw.)

In 2013, the defendants were charged with conspiracy to defraud the government of military housing funds and faced a sentence of imprisonment of up to five years. I was primary defense counsel in the case for co-defendant, Cameron. To prepare the case for trial, I developed and implemented defense strategy that focused on the defendant's lack of knowledge and intent and prepared motions in limine and a trial brief. At trial, I examined witnesses and presented closing argument. After a jury trial, the defendant whom I represented was found not guilty. The co-defendant was found guilty as charged.

Judge:
Judge J. Michael Seabright

Assistant United States Attorney:

Michael Kawahara (retired)

Secondary defense counsel:

Salina Kanai
300 Ala Moana Boulevard, Room 7-104
Honolulu, HI 96850
(808) 541-2521

Co-Defendant counsel:

Gary G. Singh
700 Bishop Street Suite 2000
Honolulu, HI 96813
(808) 529-0626

6. *United States v. Fields*, Cr. No. 08-638 JMS, (D. Haw.)

In 2008, the defendants were charged with conspiracy to possess with intent to distribute 50 grams or more of methamphetamine and faced a mandatory minimum sentence of 10 years and up to life imprisonment. I was secondary defense counsel. Prior to trial, I prepared motions in limine and a trial brief. The defense in this case was challenging because the defendant's limited mental capacity impacted his ability to testify on his behalf given his defense was that he had no knowledge that the co-defendant, his brother, sent a package containing drugs to him. At trial, I presented the opening statement and examined witnesses. The jury found our client not guilty. The co-defendant pled guilty as charged.

Judge:

Judge J. Michael Seabright

Assistant United States Attorney:

Susan Cushman
501 Las Vegas Boulevard South, Suite 1100
Las Vegas, NV 89101
(702) 388-6311

Primary defense counsel:

Alexander Silvert (Former First Assistant Federal Public Defender)
241 Iliha Street
Kailua, HI 96734
(808) 254-6626

7. *United States v. Dodge*, No. CR-04-00448 DAE (D. Haw.), *vacated and remanded*, 216 F. App'x 712 (9th Cir. 2007)

In 2004, the defendant was charged with interfering with a flight crew. I represented the defendant in his underlying case and subsequent appeal and resentencing. The defendant

pled guilty to the offense. At sentencing, the Government filed a motion for upward departure based on the defendant's prior history and on three victim-related factors. The district court rejected the victim related factors as reasons for upward departure, but adjusted the sentence upwards based on a number of other factors. The court sentenced the defendant to 70 months imprisonment and three years' supervised release. On behalf of the defendant, I briefed and argued his appeal to the Ninth Circuit Court of Appeals arguing the district court improperly upwardly adjusted his sentence. The Ninth Circuit vacated the sentence and remanded. The defendant was subsequently resentenced to 48 months imprisonment and three years' supervised release.

District Court Judge:
Judge David A. Ezra

Circuit Court Judges:
Judges Thomas G. Nelson, Ronald M. Gould, and Consuelo M. Callahan

Assistant United States Attorney:
Marshall H. Silverberg
300 Ala Moana Boulevard, Suite 6-100
Honolulu, HI 96850
(808) 541-2850

8. *United States v. Hubbard*, Cr. No. 03-0561 ACK (D. Haw.)

In 2003, the defendant was charged with attempted murder that occurred on federal property and faced a sentence of up to life. I was primary defense counsel. Prior to trial, I developed and implemented the defense theory that the defendant acted in self-defense and defense of others and prepared motions in limine and a trial brief. During the trial, I presented the opening statement and closing argument, and examined witnesses. The jury found the defendant not guilty.

Judge:
Judge Alan C. Kay

Assistant United States Attorney:
The Honorable Wes R. Porter (Former Assistant United States Attorney)
300 Ala Moana Boulevard C-229
Honolulu, HI 96813
(808) 541-1300

Co-counsel:
Alexander Silvert (Former First Assistant Federal Public Defender)
241 Iliha Street
Kailua, HI 96734
(808) 254-6626

9. *United States v. Lee*, No. CR-99-00560 SOM (D. Haw.), *rev'd and remanded*, 296 F.3d 792 (9th Cir. 2002)

In 1999, the defendant was indicted for wire fraud, in connection with internet sales using a fraudulent website. I represented the defendant during his underlying case and appeal. The defendant pled guilty to the charge. At sentencing, I filed a memorandum objecting to a sentencing guideline adjustment of two levels for use of a special skill. The district court denied my objection and sentenced the defendant to 5 months imprisonment and 3 years' supervised release. On behalf of the defendant, I briefed and argued his appeal to the Ninth Circuit arguing the district court improperly applied the special skill guideline. The Ninth Circuit reversed, finding the imposition of the special skill adjustment was not supported, and remanded for resentencing. The defendant was then sentenced to no imprisonment and two years of probation.

District Court Judge:

Judge Susan Oki Mollway

Circuit Court Judges:

Judges Melvin T. Brunetti, Andrew Jay Kleinfeld, Sidney R. Thomas

Assistant United States Attorney:

Lawrence L. Tong
300 Ala Moana Boulevard, Suite 6-100
Honolulu, HI 96850
(808) 541-2850

10. *United States v. Miguel*, Cr. No. 98-0393 HG (D. Haw.), *rev'd*, 338 F.3d 995 (9th Cir. 2003)

In 1998, the defendants were charged with felony murder, attempted robbery, attempted burglary, and several firearms charges and faced life in prison. The crimes occurred on federal property. Soon after I started with the Federal Public Defender's Office, I was asked to be secondary defense counsel. The defendant we represented was a juvenile at the time of the offense; however, after extensive litigation, the Government was able to try him as an adult. I assisted lead counsel during the adult transfer hearing by reviewing discovery, developing defense strategy and, because of his age, met with the defendant on a weekly basis. I also assisted in preparing the case for trial by writing motions in limine. At trial, I conducted witness examinations. Initially, the defendant was found guilty on all charges and sentenced to life imprisonment. The defendant appealed. The Ninth Circuit Court of Appeals found that the district court committed structural error when it precluded the defendant from arguing that another individual discharged the firearm that killed the victim and instructed the jury that no evidence supported the defendant's theory. Upon remand, I assisted in negotiating a plea agreement with the Government pursuant to which pled guilty and was sentenced to 25 years incarceration and five years' supervised release.

Judge:

Judge Helen Gillmor

Assistant United States Attorney:

Thomas Brady (Former Assistant United States Attorney)
1060 Richards Street
Honolulu, HI 96813
(808) 768-7400

The Honorable Ronald Johnson (Former Assistant United States Attorney)
777 Punchbowl Street
Honolulu, HI 96813
(808) 539-4173

Primary defense counsel:

Peter C. Wolff, Jr. (Former Federal Public Defender)
1310 Aloha Oe Drive
Kailua, HI 96734
(808) 225-3700

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

The most significant legal activities that I have pursued are my service as Circuit Court Judge from 2021 to the present, and my 20 years as an Assistant Federal Public Defender.

As a Circuit Court Judge, I am responsible for resolving a wide range of disputes concerning felony criminal matters that are assigned to me. My work involves hearing and considering motions, addressing discovery disputes, managing a heavy criminal case docket, writing opinions, and presiding over jury trials. I also accept and adjudicate guilty pleas and impose sentences on defendants who are convicted of felony criminal offenses. When I was assigned to the Family Court Criminal Division, from December 2022 to May 2023, I served as lead judge for that division. While in that division, I adjudicated more than 140 motions to dismiss complaints because the Hawai'i Supreme Court ruled in *State v. Thompson*, 150 Hawai'i 262, 500 P.3d 447 (2021), that the county prosecutor's complaint procedure did not meet statutory requirements, and as such, all cases initiated by complaint were procedurally defective and subject to dismissal. The Supreme Court's decision had a significant impact on my docket. As the county prosecutor could not immediately rectify the issue, hundreds of cases were dismissed without prejudice, subject to refile. To my knowledge those complaints are being refiled.

As an assistant federal public defender for twenty years, I represented hundreds of individuals charged with federal criminal offenses from initial appearance through appeal and strived to provide quality legal representation for those individuals to ensure that our legal system is fair to all. While at the federal public defender office I assisted in training the Criminal Justice Panel attorneys and would present at the seminars on a variety of topics that include appellate, evidentiary, and detention issues.

In addition to my professional experience, I have served my community through various professional and non-profit organizations, such as being a lawyer representative for the United States District Court, District of Hawaii, volunteer attorney for Access to Justice, the Criminal Justice Panel attorney representative for the Kapilipono Program, and have provided pro bono services to a plaintiff in a federal civil case and a petitioner in a state probate matter.

I have not performed any lobbying activities or registered as a lobbyist.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I co-taught the Appellate Advocacy class at the William S. Richardson School of Law, University of Hawai'i for the spring semesters from 2001 to 2006. The course was designed to develop various lawyering skills, including oral advocacy, legal writing and drafting, and legal research. Students were provided with a hypothetical appellate problem for which they prepared a brief and oral argument. I am unable to locate any syllabi for these courses.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

None.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

None.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items

exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

When my nomination is formally submitted to the Senate, I will file my Financial Disclosure Report and will supplement this Questionnaire with a copy of that Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

I would recuse from any cases involving former clients. However, perceived conflicts of interest may arise from the length of time that I litigated cases in Hawai'i, my affiliations with several local law firms, organizations, businesses, charitable organizations, clubs, and with my husband's employment and his involvement in the local community. While being on the state bench, this type of conflict is rare. I would resolve any potential conflict on a case-by-case basis, by applying the Code of Conduct for United States Judges, 28 U.S.C. § 455, and any other applicable ethical canons, rules, or authority.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I would address any actual or potential conflicts of interest by applying the Code of Conduct for United States Judges, 28 U.S.C. § 455, and any other applicable ethical canons, rules, or authority.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

Throughout my legal career, I have been committed to serving underprivileged, underrepresented, and disadvantaged people. As an Assistant Federal Public Defender, all of my time was devoted to the disadvantaged. As a practicing attorney I represented individuals on a pro bono basis. For example, in 2021, I provided pro bono services to the plaintiff in *Scutt v. Carbonaro CPAS N MNGMT GRP*, Civil No. 20-00362 JMS-RT, who claimed that his employer discriminated against him based upon his religion and

gender. I assisted the plaintiff with amending his complaint to conform to the rules of federal procedure and I negotiated a settlement in the case. In 2020 to 2021, I also provided pro bono services to an individual who needed assistance in petitioning the probate court to be the legal representative of his deceased sister's estate. From 2017 to 2021, I volunteered as an attorney for Access to Justice Program of the State of Hawai'i Judiciary. The purpose of the program is to substantially increase access to justice in civil legal matters for low- and moderate-income residents of the State of Hawai'i.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

On March 15, 2023, U.S. Senators Brian Schatz and Mazie Hirono announced the formation of a Federal Judicial Selection Commission to make recommendations on candidates to fill potential vacancies on the United States District Court, District of Hawaii.

On March 29, 2023, I submitted my application and was interviewed by the Commission on April 24, 2023. On May 2, 2023, I received notice from the Commission that my application would be forwarded to the Hawai'i senators for consideration. On May 23, 2023, I was interviewed by Senator Schatz, and on May 24, 2023, I was interviewed by Senator Hirono. On June 23, 2023, I learned that my name was forwarded for consideration to the White House. On June 26, 2023, I interviewed with attorneys from the White House Counsel's Office. Since July 1, 2023, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On September 6, 2023, the President announced his intent to nominate me.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.