FSM SUPREME COURT APPELLATE DIVISION

YOSLYN G. SIGRAH, ESQ.,	)	APPEAL CASE NO. P6-2021
	)	(DPA No. 003-2018)
Petitioner,	)	
	)	
vs.	)	
	)	
ASSOCIATE JUSTICE LARRY WENTWORTH,	)	
	)	
Respondent, and	)	
	)	
AARON WARREN,	)	
	)	
Disciplinary Counsel-Real Party in Interest.	)	
_____	)	

ORDER DENYING WRIT OF PROHIBITION

Dennis L. Belcourt
Associate Justice

Decided: May 4, 2021

APPEARANCE:

For the Petitioner: Yoslyn G. Sigrah, Esq.
P.O. Box 3018
Kolonia, Pohnpei FM 96941

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HEADNOTES

Mandamus and Prohibition – Procedure

An application for a writ of prohibition directed to a judge or justice must be made by filing a petition with the appellate division clerk with proof of service on the respondent judge or justice and on all parties to the trial court action and must contain a statement of the facts necessary to an understanding of the issues presented by the application; a statement of the issues presented and the relief sought; a statement of the reasons why the writ should issue; and copies of any order or opinion or parts of the record which may be essential to an understanding of the matters set forth in the petition. Sigrah v. Wentworth, 23 FSM R. 260, 263 (App. 2021).

Mandamus and Prohibition – Procedure; Mandamus and Prohibition – When May Issue

When a writ of prohibition is sought against an FSM Supreme Court justice, the remaining justices of the FSM Supreme Court justices, acting as the appellate division, are eligible to consider the petition, and if they are of the opinion that the writ clearly should not be granted, they shall deny the petition. Otherwise, they must order that an answer be filed. Sigrah v. Wentworth, 23 FSM R. 260, 263 (App. 2021).

Mandamus and Prohibition – Procedure

When a party has filed a petition for a writ of prohibition against a judge, all parties below other than the petitioner are also deemed respondents for all purposes. Sigrah v. Wentworth, 23 FSM R. 260, 263 (App. 2021).

Mandamus and Prohibition – Nature and Scope

The extraordinary writ of mandamus is used to compel public officials to perform a duty ministerial in nature and not subject to the official's own discretion while the extraordinary writ of prohibition is used to prevent a trial court from exceeding its jurisdiction and exercising unauthorized judicial or quasi-judicial power. The writs of mandamus and prohibition are similar in that the former commands the trial court to do something, while the latter commands the trial court not to do something. Sigrah v. Wentworth, 23 FSM R. 260, 264 (App. 2021).

Mandamus and Prohibition – Nature and Scope

A writ of mandamus or prohibition is an extraordinary remedy, the object of which is not to cure a mere legal error or to serve as a substitute for appeal, but to require an official to carry out a clear, nondiscretionary duty. Such a writ may only force a ministerial act or prevent a clear abuse of power and cannot be used to test or overrule a judge's exercise of discretion. Mere legal error by a judge, even gross legal error in a particular case, as distinguished from a calculated and repeated disregard of governing rules, does not suffice to support the issuance of a writ of mandamus or prohibition. Sigrah v. Wentworth, 23 FSM R. 260, 264 (App. 2021).

Mandamus and Prohibition – Nature and Scope

The single issue presented by a writ of prohibition is whether an inferior court or tribunal is without jurisdiction or is about to act in excess of its jurisdiction. Sigrah v. Wentworth, 23 FSM R. 260, 264 (App. 2021).

Mandamus and Prohibition – Nature and Scope

The extraordinary writ of prohibition is proper to prevent an inferior tribunal acting without or in excess of jurisdiction which may result in a wrong, damage, and injustice when there is no plain, speedy, and adequate legal remedy otherwise available, but the writ cannot be used as a substitute for a pending appeal that is currently being briefed, especially when the sanctions have been stayed while that appeal proceeds.

That is an adequate legal remedy for the attorney sanctions. Sigrah v. Wentworth, 23 FSM R. 260, 264 (App. 2021).

Mandamus and Prohibition – Procedure; Mandamus and Prohibition – When May Issue

A writ of prohibition may be denied without prejudice on the basis of a defect in service in and of itself. Sigrah v. Wentworth, 23 FSM R. 260, 264 (App. 2021).

Mandamus and Prohibition – Procedure

A petition for a writ of prohibition that contains a bare-bones memorandum of points and authorities, with no citation to case law or statute is procedurally deficient. Sigrah v. Wentworth, 23 FSM R. 260, 265 (App. 2021).

Mandamus and Prohibition – When May Issue

When a petitioner's contention would only have merit if the petitioner could demonstrate that the disqualifying bias (or appearance thereof) actually exists in another party's favor and that the bias, or appearance thereof, extends to that party's counsel, but when a careful review of the petitioner's affidavit does not demonstrate anything other than speculation for concluding that the justice is disqualified by bias (or the appearance thereof) in either the party's or its counsel's favor and when the petitioner's 20-page affidavit primarily focuses on her self-described role in defending borrowers in collection cases and none of her affidavit actually addresses a substantive basis for granting her the relief she has requested, to the extent the petitioner attempts to address the essential question of whether the justice should be disqualified, her evidence falls far short of a *prima facie* case for a writ of prohibition. Sigrah v. Wentworth, 23 FSM R. 260, 266 (App. 2021).

Courts – Recusal – Bias and Partiality; Mandamus and Prohibition – When May Issue

Rulings against a party are insufficient to show bias against that party under 4 F.S.M.C. 124(1). Merely concluding that a favorable ruling for any party, without actual proof that the rulings were clearly not supported by the law or substantial evidence, only presumes bias or partiality. Presumption and belief, irrespective of who makes the assumption or holds the belief, are insufficient to support allegations entitling a petitioner to extraordinary relief because a judicial officer is presumed to be to be unbiased and when a party challenges a judicial officer's failure to recuse himself, it is that party's burden to go beyond wide-ranging speculation or conclusions and show a factual basis for recusal. An assertion that a judicial officer must recuse based on appearance, i.e., that his impartiality might reasonably be questioned, must be based on a disinterested reasonable person who knows all the circumstances. Sigrah v. Wentworth, 23 FSM R. 260, 266 (App. 2021).

Courts – Recusal – Bias and Partiality; Mandamus and Prohibition – When May Issue

A petitioner demanding a judicial officer's recusal based on questions of partiality must allege facts that show partiality and must provide an affidavit showing the purported facts underpinning the allegation; absent such, only the petitioner's subjective assertions remain. When the petitioner's unsupported allegations that the judge is not impartial are purely speculative, they are insufficient to support the judge's disqualification. Sigrah v. Wentworth, 23 FSM R. 260, 266-67 (App. 2021).

Courts – Recusal – Bias and Partiality; Mandamus and Prohibition – Procedure

A petition for a writ of prohibition must contain copies of any order or opinion or parts of the record which may be essential to an understanding of the matters set forth in the petition, that would, at a minimum, be the trial judge's written order denying recusal and the reasons for that denial or, if the denial was oral, a transcript of that denial. Sigrah v. Wentworth, 23 FSM R. 260, 267 (App. 2021).

Courts – Recusal – Bias and Partiality; Mandamus and Prohibition – When May Issue

Procedural challenges, about who appointed the disciplinary counsel, about the court's use of virtual

hearings to conduct hearings, and about the appointing justice's and a court-appointed disciplinary counsel's ethnicity, are misplaced. These circumstances do not evidence any kind of judicial bias that would warrant or otherwise justify the issuance of a writ of prohibition. Once a final order is issued in the underlying case, the petitioner may seek appellate review of these issues. In the meantime, these assertions bear no relevance to the requested relief of a writ of prohibition. Sigrah v. Wentworth, 23 FSM R. 260, 267 (App. 2021).

Mandamus and Prohibition – Procedure

When the appellate division determines that the petitioner's writ of prohibition should clearly not issue, the clerk of court should also file a copy of the appellate denial in the file for the underlying case, and serve it on the petitioner and all attorneys in the underlying case. Sigrah v. Wentworth, 23 FSM R. 260, 267-68 (App. 2021).

* * * *

COURT'S OPINION

DENNIS L. BELCOURT, Associate Justice:

This matter comes before the Court on the Petitioner's application for a writ of prohibition to issue to Associate Justice Larry Wentworth, preventing him from further presiding over a pending disciplinary case which concerns the above-captioned attorney, Yoslyn G. Sigrah, Esq., and which is captioned as: In re: Yosilyn G. Sigrah, Esq., DPA No. 003-2018.

For the reasons stated below, the writ of prohibition is hereby denied.

A. *Procedure for Writ of Prohibition*

To begin, the Court's Rules of Appellate Procedure provide that an application for a writ of prohibition directed to a judge or justice shall be made by filing a petition with the clerk of the Court's appellate division with proof of service on the respondent judge or justice and on all parties to the action in the trial court. FSM App. R. 21. The petition shall contain a statement of the facts necessary to an understanding of the issues presented by the application; a statement of the issues presented and the relief sought; a statement of the reasons why the writ should issue; and copies of any order or opinion or parts of the record which may be essential to an understanding of the matters set forth in the petition. *Id.* Upon receipt of a petition conforming to the above requirements, the clerk shall file the petition and submit it to any remaining article XI, section 3 justices of the Supreme Court appellate division who are not the subject of the action. *Id.* The remaining justices of the Court, acting as the appellate division, are eligible to consider the petition. *Id.*

If the remaining full time justices are of the opinion that the writ clearly should not be granted, they shall deny the petition. FSM App. R. 21. Otherwise, they shall order that an answer be filed. *Id.* The order shall be served by the clerk on the judge or justice named respondent and on all other parties to the action in the trial court. *Id.* Heirs of Tulenkun v. Aliksa, 19 FSM R. 191, 194 (App. 2013) (if the appellate division is of the opinion that a writ of prohibition clearly should not be granted, it must deny the petition; otherwise, it must order that an answer be filed).

All parties below other than the petitioner shall also be deemed respondents for all purposes. FSM App. R. 21. Two or more respondents may answer jointly. *Id.* If a judge or justice named respondent does not desire to appear in the proceeding, the judge or justice may so advise the clerk and all parties by letter, but the petition shall not thereby be taken as admitted. *Id.* The clerk shall advise the parties of the dates on which briefs are to be filed, if briefs are required, and of the date of oral argument. *Id.* The proceeding

shall be given preference over ordinary civil cases. *Id.* The remaining justices of the Supreme Court to whom the petition is submitted may sit as the appellate division hearing the case or, if there are fewer than three, may, at their discretion, seek appointment of a temporary justice pursuant to the special assignment powers of the chief justice under article XI, section 9 of the Constitution. FSM App. R. 21.

It is well recognized that this Court has inherent constitutional power to issue all writs, including writs of mandamus and writs of prohibition. Etscheit v. Amaraich, 14 FSM R. 597, 600 (App. 2007). The extraordinary writ of mandamus is used to compel public officials to perform a duty ministerial in nature and not subject to the official's own discretion while the extraordinary writ of prohibition is used to prevent a trial court from exceeding its jurisdiction and exercising unauthorized judicial or quasi-judicial power. *Id.* at 600. The writs of mandamus and prohibition are similar in that the former commands the trial court to do something, while the latter commands the trial court not to do something. *Id. See* Peterson v. Anson, 20 FSM R. 657, 659 (App. 2016) (party seeking the extraordinary and exceptional remedy of a writ of prohibition must show that the party's right to the writ is clear and indisputable and that all of the following five elements are satisfied: 1) the respondent must be a judicial or other public officer; 2) the act to be compelled must be non-discretionary or ministerial; 3) the respondent must have a clear legal duty to perform the act; 4) the respondent must have failed or refused to have performed that act; and 5) there must be no other adequate legal remedy available).

A writ of mandamus or prohibition is an extraordinary remedy, the object of which is not to cure a mere legal error or to serve as a substitute for appeal, but to require an official to carry out a clear, nondiscretionary duty. Etscheit v. Amaraich, 14 FSM R. 597, 600 (App. 2007). Such a writ may only force a ministerial act or prevent a clear abuse of power and cannot be used to test or overrule a judge's exercise of discretion. Mere legal error by a judge, even gross legal error in a particular case, as distinguished from a calculated and repeated disregard of governing rules, does not suffice to support the issuance of a writ of mandamus or prohibition. *Id.* at 600. The issuance of writs is discretionary and must be used with great caution. *Id.*

The single issue presented by a writ of prohibition is whether an inferior court or tribunal is without jurisdiction or is about to act in excess of its jurisdiction. Tilfas v. Aliksa, 19 FSM R. 181, 184 (App. 2013). The extraordinary writ of prohibition is proper to prevent an inferior tribunal acting without or in excess of jurisdiction which may result in a wrong, damage, and injustice when there is no plain, speedy, and adequate legal remedy otherwise available. A writ of prohibition cannot be used as a substitute for a pending appeal of attorney sanctions that is currently being briefed, especially when the sanctions have been stayed while that appeal proceeds. *Id.* at 184. That is an adequate legal remedy for the attorney sanctions. *Id.*; *see* Peterson v. Anson, 20 FSM R. 657, 658-59 (App. 2016) (writ of prohibition clearly should not be granted based on a judge's adverse ruling that did not even remain adverse when the justice changed her mind and on factors that arose as part of the give and take during a contentious oral hearing on a controversial topic).

B. *Analysis of Writ of Prohibition*

1. *Preliminary Matters*

In this case, as an initial matter, it should be noted that I am the sole, remaining article XI, section 3 justice of the Court who is eligible to consider the petition in this case. Thus, I am serving as the Court's appellate division for this particular matter. FSM App. R. 21.

2. *Procedural Defects in Petition*

The writ of prohibition at issue here may be denied without prejudice on the basis of a defect in service in and of itself. Miju Mulsan Co. v. Carl-Worswick, 20 FSM R. 660, 662 (App. 2016) (when the

procedural deficiencies in a petition for a writ of prohibition are too many to overlook, the petition will be denied without prejudice to any future petition in which these procedural deficiencies have all been cured).

Petitioner has failed to serve all the parties involved. Specifically, the petitioner failed to serve Associate Justice Larry Wentworth with a copy of her petition for a writ of prohibition. FSM App. R. 21 (application for a writ of mandamus or of prohibition directed to a judge or justice shall be made by filing a petition with the clerk of the Supreme Court appellate division *with proof of service on the respondent judge or justice* and on all parties to the action in the trial court) (emphasis added). In this case, the certificate of service accompanying the petitioner's filing in question states that service was performed by first class mail to Associate Justice Larry Wentworth and first class mail and email to the court-appointed disciplinary counsel Aaron Warren, Esq. The Court's Rules of Appellate Procedure do not permit service of pleadings by e-mail; thus, the reference in the certificate of service to service by e-mail is irrelevant. With respect to service by mail, Associate Justice Larry Wentworth has confirmed that, to date, he has not received a copy of the petition for a writ of prohibition. Additionally, the petition contains but a bare-bones memorandum of points and authorities, with no citation to case law or statute. Such a deficiency is also a procedural defect. Halbert v. Manmaw, 20 FSM R. 245, 249 (App. 2015).

3. *Substantive Sufficiency for Petition for Writ of Prohibition*

As noted above, a petition for writ of prohibition "shall contain a statement of the facts necessary to an understanding of the issues presented by the application; a statement of the issues presented and the relief sought; a statement of the reasons why the writ should issue; and copies of any order or opinion or parts of the record which may be essential to an understanding of the matters set forth in the petition." FSM App. R. 21.

The petitioner's statement of facts submitted in support of issuing a writ of prohibition are grounded in error and otherwise substantially deficient. First, the petitioner not only misunderstands the genesis for the underlying disciplinary case at issue here, but she confuses it with another pending trial court case. According to the petitioner, the underlying disciplinary case at issue here resulted from a complaint lodged by Nora Sigrah, Esq., who represents the Federated States of Micronesia Development Bank in numerous cases pending before this Court, including the cases of Federated States of Micronesia Development Bank v. Yosilyn Carl et al., Civil Action No. 1996-060, and Federated States of Micronesia Development Bank v. Yosilyn Carl et al., Civil Action No. 2019-003.

In fact, the underlying disciplinary case at issue here was initiated by a motion filed by Chief Justice Yamase from matters that arose before him while he presided over the case of Federated States of Micronesia Development Bank v. Yosilyn Carl et al., Civil Action No. 1996-060. *See* FSM Dis. R. 4 (initial processing of complaints). In that case, the petitioner-attorney, Yoslyn G. Sigrah, Esq., represents certain named-party defendants, as well as a garnishee who is not a party to the litigation, but who is subject to a post-judgment garnishment order issued in that case. On July 9, 2018, the Court found the garnishee, Kazuhiro Fujita, in contempt of court. This finding flowed from a January 18, 2018, hearing, in which the testimony and evidence showed that the petitioner-attorney was apparently also involved in the actions that gave rise to the contempt-of-court finding in question. While the case of Federated States of Micronesia Development Bank v. Yosilyn Carl et al., Civil Action No. 1996-060, remains pending before Chief Justice Yamase, the resulting disciplinary case at issue here, which was initiated by motion of Chief Justice Yamase, is pending before Associate Justice Larry Wentworth. In fact, Chief Justice Yamase has disqualified himself from presiding over this appeal under 4 F.S.M.C. 124(2)(a), for this very reason.

Separate and apart from the case of Federated States of Micronesia Development Bank v. Yosilyn Carl et al., Civil Action No. 1996-060, is the case of Federated States of Micronesia Development Bank v. Yosilyn Carl et al., Civil Action No. 2019-003, which is an independent action on a judgment. Associate

Justice Larry Wentworth has been presiding over the case of Federated States of Micronesia Development Bank v. Yosilyn Carl et al., Civil Action No. 2019-003. Like the case of Federated States of Micronesia Development Bank v. Yosilyn Carl et al., Civil Action No. 1996-060, the case of Federated States of Micronesia Development Bank v. Yosilyn Carl et al., Civil Action No. 2019-003, also involves the same parties, who are represented by the same counsel. The case of Federated States of Micronesia Development Bank v. Yosilyn Carl et al., Civil Action No. 2019-003, is currently on appeal: Yosilyn Carl et al. v. Federated States of Micronesia Development Bank, P2-2020.

According to the petitioner, Associate Justice Wentworth cannot preside over the underlying disciplinary case at issue here while he also presides over the case of Federated States of Micronesia Development Bank v. Yosilyn Carl et al., Civil Action No. 2019-003, which the petitioner-attorney is appearing in on behalf of her clients. The petitioner further claims that all of the decisions issued by Associate Justice Larry Wentworth in the case of Federated States of Micronesia Development Bank v. Yosilyn Carl et al., Civil Action No. 2019-003, have been in favor of the Federated States of Micronesia Development Bank ("Development Bank"), *ergo* Justice Wentworth is "aiding and abetting [the Development Bank's attorney] Nora Sigrah, Esq." From this allegation of bias in favor of the Development Bank and its attorney, the petitioner is asking this Court to conclude that Justice Wentworth must be prohibited in deciding the disciplinary matter concerning her, simply because she represents parties adverse to the Development Bank. The petitioner's contention would only have merit if the petitioner can demonstrate that the disqualifying bias (or appearance thereof) actually exists in favor of the Development Bank and that the bias, or appearance thereof, extends to the Development Bank's counsel.

A careful review of the petitioner's affidavit, however, does not demonstrate with anything other than speculation any substantive basis for concluding that Associate Justice Larry Wentworth is disqualified by bias (or the appearance thereof) in favor of either the Development Bank or its counsel, Nora Sigrah, Esq. The petitioner's 20-page affidavit primarily focuses on her self-described role in defending borrowers in collection cases initiated by the Development Bank; none of her affidavit actually addresses a substantive basis for granting her the relief she has requested in this appeal. For example, the petitioner relies heavily upon the sentiments of unnamed and unsworn individuals who appear to believe that the Development Bank's efforts to collect on defaulted loans should be curtailed.

To the extent the petitioner attempts to address the essential question of whether Associate Justice Wentworth should be disqualified, her evidence falls far short of a *prima facie* case for a writ of prohibition. Indeed, the petitioner's imputation of bias on the part of Associate Justice Wentworth, towards the Development Bank, is, at its most factual level, that Associate Justice Wentworth worked on Development Bank cases while serving as both a staff attorney and justice at the Court, and that his efforts almost always resulted in favorable rulings for the Development Bank. This Court has previously ruled that rulings against a party are insufficient to show bias against that party under 4 F.S.M.C. 124(1). Halbert v. Manmaw, 20 FSM R. 245, 250 (App. 2015). Moreover, merely concluding that a favorable ruling for any party, without actual proof that the rulings were clearly not supported by the law or substantial evidence, only presumes bias or partiality. As this Court has explained, presumption and belief, irrespective of who makes the assumption or holds the belief, are insufficient to support allegations entitling a petitioner to extraordinary relief. Shrew v. Sigrah, 13 FSM R. 30, 34 (Kos. 2004). A judicial officer is presumed to be to be unbiased. Ting Hong Oceanic Enterprises v. Supreme Court, 8 FSM R. 1, 6 (App. 1997). When a party challenges a judicial officer's failure to recuse himself, it is that party's "burden to go beyond wide-ranging speculation or conclusions and show a factual basis for recusal." Jano v. King, 5 FSM R. 266, 268 (Pon. 1992). An assertion that a judicial officer must recuse based on appearance, i.e., that "his impartiality might reasonably be questioned," must be based on "a disinterested reasonable person who knows all the circumstances." *Id.* at 270.

A petitioner demanding recusal of a judicial officer based on questions of impartiality must allege facts

that show partiality. The petitioner must provide an affidavit showing the purported facts underpinning the allegation; absent such, only the petitioner's subjective assertions remain, and when the petitioner's unsupported allegations that the judge is not impartial are purely speculative, they are insufficient to support his disqualification. Halbert, 20 FSM R. at 249-50.

More recently, this Court has found that FSM Appellate Rule 21(a) requires that a petition for a writ of prohibition contain copies of any order or opinion or parts of the record which may be essential to an understanding of the matters set forth in the petition, that would, at a minimum, be the trial judge's written order denying recusal and the reasons for that denial or, if the denial was oral, a transcript of that denial. Miju Mulsan Co. v. Carl-Worswick, 20 FSM R. 660, 662 (App. 2016). In the case at hand, there were no copies of any pleadings or orders attached to the petition.

Similarly, the petitioner's claims regarding the appointment of a disciplinary counsel in this case as well as the Court's use of virtual hearings to conduct proceedings in this case are misplaced. Indeed, these procedural challenges do not evidence any bias or untoward action on the part of Associate Justice Wentworth in connection with the adjudication of the pending disciplinary case at issue here. The Court's Disciplinary Rules and Procedures expressly provide that a disciplinary counsel is to be appointed on the case. Here, the petitioner does not complain about who Associate Justice Wentworth appointed as disciplinary counsel; instead, she complains that the appointment should have come from the Chief Justice, rather than an Associate Justice. This issue itself was raised with Associate Justice Wentworth by the petitioner in the pending disciplinary action at issue here, and denied in an Order issued on August 21, 2020. Thus, this argument is now more appropriate for consideration in the context of an appeal of any final order that might be issued in the underlying disciplinary case at issue here. It is, however, misplaced in the context of a writ of prohibition.

Likewise, the petitioner's concerns about the Court's use of a video technology to conduct virtual hearings that involve an attorney who is an FSM citizen residing in Pohnpei, with an Associate Justice and a court-appointed disciplinary counsel, who are neither FSM nationals nor of Micronesian ethnicity, appearing, respectively from Chuuk State, and American Samoa, are equally misplaced. These circumstances do not evidence any kind of judicial bias that would warrant or otherwise justify the issuance of a writ of prohibition. Indeed, in her 19-page affidavit supporting her request for a writ the petitioner-attorney provides no rule of law that prescribes standards of ethnicity for justices or attorneys who participate in disciplinary proceedings. Nor does she offer any evidence of any kind to suggest that diverse ethnicity has resulted in bias against her that may, in turn, justify the issuance of a writ of prohibition. Moreover, these very issues have been raised by the petitioner with Justice Wentworth in the underlying disciplinary case, and, in turn, addressed by him in his Order of August 21, 2020, denying the petitioner's request to disqualify the court-appointed disciplinary counsel in this case. Once a final order is issued in the disciplinary case at issue here, the petitioner-attorney may seek appellate review of Justice Wentworth's handling of these issues while presiding over the adjudication of the pending disciplinary matter. In the meantime, these assertions bear no relevance to the requested relief from this court, *i.e.*, a writ of prohibition.

In short, the petition now before the Court completely lacks grounds to justify the issuance of a writ of prohibition. *See* Halbert v. Manmaw, 20 FSM R. 245, 249-50 (App. 2015) (the court may issue a writ of prohibition only when the party seeking a writ has met his burden to show that his right is clear and indisputable; a petitioner seeking a writ of prohibition to disqualify a trial judge must show an abuse of discretion, as the appellate court will not merely substitute its judgment for that of the trial judge).

Accordingly, this Court hereby determines that the petitioner's writ of prohibition should clearly not issue, *see* FSM App. R. 21; therefore, the writ of prohibition is hereby denied. The Clerk of Court is hereby instructed to file a copy of this Order in the file for the underlying case captioned as: In re: Yosilyn G. Sigrah, Esq., DPA No. 003-2018. The Clerk of Court is further instructed to serve a copy of this Order on the

petitioner-attorney, Yoslyn G. Sigrah, Esq, her counsel of record in the case of In re: Yosilyn G. Sigrah, Esq., DPA No. 003-2018, Richard Gronna, Esq., and the court-appointed disciplinary counsel, Aaron Warren, Esq.

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