

No. 12-17808

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

GEORGE K. YOUNG, JR.,

Plaintiff-Appellant,

v.

STATE OF HAWAII, et al.,

Defendants-Appellees.

On Appeal from the United States District Court for the District of Hawai‘i
Honorable Helen W. Gillmor, United States District Judge
(Civil No. 1:12-cv-00336-HG-BMK)

APPLICATION FOR EXEMPTION TO CIRCUIT RULE 46-5

DECLARATION OF KALIKO‘ONALANI D. FERNANDES

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APPLICATION FOR EXEMPTION TO CIRCUIT RULE 46-5

Pursuant to Ninth Circuit Rule 46-5, a former employee of the Court “may apply to the Court for an exemption” to that rule’s bar on former employees participating or assisting “by way of representation, consultation, or otherwise, in any case that was pending in the Court during the employee’s period of employment.” The application for an exemption “must demonstrate that the attorney had no direct or indirect involvement with the case during employment with the Court, and that the attorney was not employed or assigned in the chambers of any judge who participated in the case during the attorney’s employment with the Court.” Ninth Circuit Rule 46-5.

Kaliko‘onalani D. Fernandes is a former Ninth Circuit law clerk seeking an exemption to Ninth Circuit Rule 46-5 in order to represent the State of Hawai‘i in this case. This case was pending during Ms. Fernandes’ employment with the Ninth Circuit, but Ms. Fernandes had no direct or indirect involvement with the case during her employment. Moreover, to Ms. Fernandes’ knowledge, she was not employed or assigned in the chambers of any judge who participated in the case during her employment with the Court. *See* Declaration of Kaliko‘onalani D. Fernandes at ¶¶ 4–7.

For these reasons, we respectfully request that the Court grant the
Application for Exemption to Circuit Rule 46-5.

DATED: Honolulu, Hawai'i, August 21, 2018.

/s/ Kaliko'onalani D. Fernandes
CLYDE J. WADSWORTH
KALIKO'ONALANI D. FERNANDES

DECLARATION OF KALIKO‘ONALANI D. FERNANDES

I, KALIKO‘ONALANI D. FERNANDES, hereby declare as follows:

1. I am a Deputy Solicitor General with the Department of the Attorney General of the State of Hawai‘i. I make this declaration based upon personal knowledge, unless otherwise stated herein.

2. I served as a law clerk to the Honorable Richard R. Clifton of the United States Court of Appeals for the Ninth Circuit from September 2015 to September 2016.

3. This case—*George K. Young, Jr. v. State of Hawaii, et al.*, No. 12-17808—was pending during my period of employment with the Ninth Circuit.

4. I had no direct or indirect involvement with this case during my period of employment with the Ninth Circuit.

5. To my knowledge, Judge Clifton did not participate in ruling on any motion or any other aspect of this case during my period of employment with the Ninth Circuit.

6. The Ninth Circuit docket in this matter does not appear to reflect that Judge Clifton was involved in this case during my period of employment with the Ninth Circuit.

7. I was not employed or assigned in the chambers of any judge other than Judge Clifton during my period of employment with the Ninth Circuit.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: Honolulu, Hawai'i, August 21, 2018.

/s/ Kaliko'onalani D. Fernandes
KALIKO'ONALANI D. FERNANDES

CERTIFICATE OF SERVICE

I hereby certify that on August 21, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

DATED: Honolulu, Hawai'i, August 21, 2018.

/s/ Kaliko'onalani D. Fernandes
CLYDE J. WADSWORTH
KALIKO'ONALANI D. FERNANDES