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SCPW-24-0000537

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

HAWAI'I POLICE DEPARTMENT,  
COUNTY OF HAWAI'I,

Petitioner,

vs.

THE HONORABLE PETER K. KUBOTA,  
Judge of the Circuit Court of Third Circuit,  
State of Hawai'i,

Respondent.

ORIGINAL PROCEEDINGS

Civil No. 3CSP-23-0000003; 3CSP-23-  
0000017

PETITIONER'S SUPPLEMENTAL BRIEF;  
CERTIFICATE OF SERVICE

CIRCUIT COURT OF THE THIRD  
CIRCUIT

HONORABLE PETER K. KUBOTA

**PETITIONER'S SUPPLEMENTAL BRIEF**

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## PETITIONER'S SUPPLEMENTAL BRIEF

Comes now Petitioner, HAWAI'I POLICE DEPARTMENT, COUNTY OF HAWAI'I ("HPD"), by and through its undersigned attorney, E. BRITT BAILEY, and hereby submits its Supplemental Brief pursuant to this Court's *Order*, issued August 28, 2024, Dkt. 38 ("Order"). The Order requires HPD to address whether Hawai'i Rules of Penal Procedure ("HRPP") Rule 40(c)(3), Hawai'i Revised Statutes ("HRS") § 661B-2(a)-(b), Hawai'i Rules of Civil Procedure ("HRCP") Rule 26, and Hawai'i Rules of Evidence ("HRE") Rule 501 (collectively "the Authorities") apply to the issue raised in HPD's *Petition for Writ of Mandamus*, filed August 7, 2024 ("Petition"). Specifically, the Order requires HPD to address whether the Authorities apply to the *Subpoena Duces Tecum* served on HPD on August 1, 2024 ("Subpoena") compelling HPD's production of law enforcement records related to its active, open and ongoing criminal investigation of recent developments in the Dana Ireland murder case.

To cogently discuss the Authorities' application to the issue the Petition raises, the procedural anomalies in Albert Ian Schweitzer's and Shawn Schweitzer's HRPP Rule 40 Special Proceedings, *i.e.*, 3CSP-23-0000003 and 3CSP-23-0000017, must be scrutinized, if not procedurally disentangled and reset.

In 3CSP-23-0000003 ("Rule 40 No.1"), Albert Ian Schweitzer brought a *Petition to Vacate Judgment and Release Petitioner Albert Ian Schweitzer from Custody* under HRPP Rule 40(c); and in 3CSP-23-0000017 ("Rule 40 No. 2"), Shawn Schweitzer filed a *Petition to Vacate Judgment* under HRPP Rule 40(c) (collectively "Special Proceedings"). On October 20, 2023, in Rule 40 No. 1, the Circuit Court issued its *Findings of Fact, Conclusions of Law Granting Petition to Vacate, Set Aside, and Correct Judgment, and to Release Petitioner Albert Ian Schweitzer from Custody* ("FOF/COL/Order"). See Judicial Electronic Filing System ("JEFS"),

3CSP-23-0000003, Dkt. 117. On October 23, 2023, in Rule 40 No. 2, by stipulation of the parties, the Judge granted Shawn Schweitzer's Petition to withdraw his plea in criminal case number 3PC990000147 and vacate the judgment. See Judicial Electronic Filing System ("JEFS"), 3CSP-23-0000017, Dkt. 68. The State of Hawai'i then moved for dismissal of 3PC990000147 without prejudice, which was granted. *Id.* Subsequently, on November 30, 2023, Shawn Schweitzer filed his *Withdrawal of Petition to Vacate Judgment. Id.*, Dkt. 71.

Despite the Special Proceedings' ostensible conclusiveness, the Schweitzers submitted additional requests to the Circuit Court months after it entered of the FOF/COL/Order on October 23, 2023. One such request was the *Motion to Preserve Evidence and Compel Discovery Re: Joint Petition for Relief Pursuant to H.R.S. Chapter 661B* ("Motion to Compel"), filed in Rule 40 No. 1, which led to the HPD's Petition. Rule 40 No. 1, Dkt. 133.

#### **I. RELEVANT PROCEDURAL HISTORY**

1. On January 23, 2023, pursuant to HRPP Rule 40(a)(1)(i),(iv) and (v), Albert Ian Schweitzer filed his *Petition to Vacate Judgment and Release Petitioner Albert Ian Schweitzer From Custody* in the Circuit Court of the Third Circuit thereby initiating Rule 40 No. 1. Rule 40 No.1, Dkt 8. Rule 40 No. 1 was based upon newly discovered evidence.

2. On January 24, 2023, the Honorable Peter K. Kubota ("Judge Kubota") heard Rule 40 No. 1. Following testimony of witnesses and the introduction of the newly discovered evidence, Judge Kubota granted Rule 40 No. 1 and vacated the conviction of Albert Schweitzer, immediately released him from custody, and dismissed the indictment without prejudice. *Id.*, Dkt. 99.

3. On April 6, 2023, pursuant to HRPP Rule 40(a)(1)(i)(iv) and (v) Shawn Schweitzer filed his *Petition to Vacate Judgment* in the Circuit Court of the Third Circuit thereby initiating

Rule 40 No. 2. Rule 40 No. 2, Dkt. 1. Shawn Schweitzer’s Rule 40 Petition was based upon newly discovered evidence.

4. On October 20, 2023, Judge Kubota signed entered the FOF/COL/Order concluding “the new DNA and bitemark evidence, newly presented tire tread evidence, and the recent recantation of Shawn Schweitzer conclusively proves that in a new trial a new jury would likely reach a verdict of acquittal.” Rule 40 No. 1, Dkt. 117.

5. On October 23, 2023, by stipulation of the parties, Judge Kubota granted Shawn Schweitzer Petition in Rule 40 No. 2 allowing him to withdraw his plea in criminal case number 3PC99000147 and vacate the judgment. Rule 40 No. 2, Dkt. 68. The State of Hawai‘i then moved for dismissal of 3PC990000147 without prejudice, which was granted. *Id.*

6. On November 30, 2023, Shawn Schweitzer filed his *Withdrawal of Petition to Vacate Judgment* thereby concluding Rule 40 No. 2. *Id.*, Dkt. 71.

7. On March 7, 2024, in Rule 40 No. 1, counsel filed a *Motion for Finding of Actual Innocence for Purposes of HRS § 661B-3*. Rule 40 No. 1, Dkt. 123.

8. On March 15, 2024, OPA filed *State of Hawai‘i’s Memorandum in Opposition to Motion for Finding of Actual Innocence*. *Id.*, Dkt 125.

9. On June 4, 2024, in Rule 40 No. 1, counsel for Albert Ian Schweitzer filed *Joint Petition for Relief Pursuant to HRS § 661B*. *Id.*, Dkt. 127.

10. On June 20, 2024, in Rule 40 No.2, counsel for Shawn Schweitzer filed their *Joint Petition for Relief Pursuant to HRS § 661B*. Rule 40 No. 2, Dkt. 81.

11. On July 26, 2024, OPA filed *State of Hawai‘i’s Memorandum in Opposition to Joint Petition for Relief Pursuant to HRS Chapter 661B* (“661B Opposition”). Rule 40 No. 1, Dkt. 130; Rule 40 No. 2, Dkt. 83.

12. On July 28, 2024, counsel for Albert Schweitzer filed a *Motion to Preserve Evidence and Compel Discovery Re: Joint Petition for Relief Pursuant to H.R.S. Chapter 661B* (“Motion to Compel”). Rule 40 No. 1, Dkt. 133. The Motion to Compel was brought under HRPP Rule 40(g) and HRCF Rule 37. *Id.*, Dkt. 133 at 3.

13. On July 29, 2024, OPA filed *State of Hawai‘i’s Memorandum in Opposition to Motion to Preserve Evidence and Compel Discovery Re. Joint Petition for Relief Pursuant to HRS Chapter 661B*. Rule 40 No. 1, Dkt. 154; Rule 40 No. 2, Dkt. 88.

14. On July 29, 2024, OPA filed *State of Hawai‘i’s Motion to Continue the Joint Petition for Relief Pursuant to HRS Chapter 661B*. Rule 40 No. 1, Dkt. 156; Rule 40 No. 2, Dkt. 90.

15. On July 30, 2024, the Circuit Court granted the Motion to Compel. Rule 40 No. 1, Dkt. 160; Rule 40 No. 2, Dkt. 92

16. On July 31, 2024, an unofficial subpoena was served to the Office of the Corporation Counsel on behalf of HPD. Rule 40 No. 1, Dkt. 161.

17. On August 1, 2024, Deputy Corporation Counsel, E. Britt Bailey, entered her appearance in this matter for the Hawai‘i Police Department. *Id.*, Dkt. 163; Rule 40 No. 2, Dkt. 95.

18. On August 1, 2024, HPD filed *HPD’s Motion to Quash Subpoena Duces Tecum*, *Served July 31, 2024*. *Id.*, Dkt. 167; Rule 40 No. 2, Dkt. 99.

19. On August 1, 2024, the *Order Granting Motion to Compel Discovery Re: Joint Petition for Relief Pursuant to HRS Chapter 661B* was filed. *Id.*, Dkt. 169; Rule 40 No. 2, Dkt. 101.

20. On August 1, 2024, the Office of the Corporation Counsel was served with a new, unofficial subpoena<sup>1</sup>. *Id.*, Dkt. 174; Rule 40 No. 2, Dkt. 106.

21. On August 2, 2024, HPD filed *HPD's Motion to Quash Subpoena Duces Tecum, Served August 1, 2024* ("Motion to Quash"). Rule 40 No. 1, Dkt. 176.

22. On August 5, 2024, HPD's Motion to Quash was heard and subsequently denied. Rule 40 No. 1, Dkt. 184; Rule 40 No. 2, Dkt. 110. As directed by the Court, HPD provided the available law enforcement records pertaining to the active and ongoing criminal investigation to Judge Kubota for *in camera* review. The parties were ordered to return to court on August 7, 2024 where the court would provide further instruction on the release and disclosure of the records pertaining to the criminal investigation. *Id.*

23. On August 6, 2024, HPD filed *HPD's Emergency Motion to Stay and Enjoin Compliance with Petitioner's Subpoena Duces Tecum Served August 1, 2024, Pending Mandamus Review*. Rule 40 No. 1, Dkt. 185; Rule 40 No. 2, Dkt. 111.

24. On August 7, 2024, HPD filed *HPD's Notice of Submission of Its Petition for Writ of Mandamus*. 3CSP-23-0000003, Dkt. 189.

## **II. ARGUMENT**

There are significant procedural errors in the Special Proceedings giving rise to HPD's Petition. The Special Proceedings were decided in favor of the Schweitzers and the underlying criminal case was dismissed. Rule 40 No. 1, Dkt. 117; Rule 40 No. 2, Dkt. 68.

Five months after the criminal case dismissals and subsequent withdrawal of Shawn Schweitzer's Rule 40 petition and conclusion of Rule 40 No. 2, however, Albert Schweitzer filed

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<sup>1</sup> Neither the July 31, 2024 nor the August 1, 2024 served subpoenas were issued by the clerk of the circuit court pursuant to HRCF Rule 45(a).

a *Motion for Finding of Actual Innocence* in Rule 40 No. 1 (“Innocence Motion”). Rule 40 No. 1, Dkt. 123.

Eight (8) months after entry of the FOF/COL/Order and dismissals of the criminal matter, the Schweitzers filed their *Joint Petition for Relief Pursuant to HRS § 661B* (“661B Petition”) in the Special Proceedings. Notably, the Schweitzers did initiate their 661B Petition as a new civil action.

**A. HRPP Rule 40(c)(3) Does Not Apply to the Issue Raised in HPD’s Petition**

HRPP Rule 40(c)(3) addresses HRPP Rule 40 petitions containing separate civil causes of actions, which HRPP does not govern. The Special Proceedings alleged illegality of judgment and post-conviction custody or restraint and did not plead, simultaneous with their Rule 40 claims for post-conviction relief, separate claims under a civil rights statute or other separate cause of action.

Instead, the Schweitzers brought a separate 661B Petition successfully and within Rule 40 No. 1 and Rule 40 No. 2. To the extent the 661B Petition would be construed as a new post-conviction petition, the court would be required to treat the pleading as a civil complaint not governed by HRPP Rule 40(c)(3). In fact, treating the pleading as a civil complaint would comport with HRS § 661B-2(a), which requires a separate civil action be filed in the circuit court.

That said, HPD contends the FOF/COL/Order in Rule 40 No. 1 constitutes a final judgment under HRPP Rule 40(g)(3). HPD contends the granting of the Rule 40 No. 2 in favor of Shawn Schweitzer is at best an oral judgment. But certainly, Shawn Schweitzer’s withdrawal of his Petition in Rule 40 No. 2 unequivocally concludes Rule 40 No. 2. Therefore, HPD contends the filing of the Innocence Motion and 661B Petition within the Special Proceedings were

procedurally improper. The Schweitzers' Rule 40 Petitions should have requested a finding of actual innocence, and the Circuit Court's determination thereon would have been included in the FOF/COL/Order. Had a separate civil action under HRS ch. 661B been properly initiated thereafter, it is evident that the additional Authorities would apply to the issue raised in HPD's Petition.

**B. HRS § 661B-2(a)-(b) Would Apply To A Properly Initiated 661B Action**

As stated *supra*, the Schweitzers filed their 661B Petition *in* the Special Proceedings nearly eight (8) months after the entry of the FOF/COL/Order and dismissal of the criminal case. The filing of the 661B Petition *within* the Special Proceedings is procedurally improper.

Relief under HRS Chapter 661B is the exclusive civil remedy for compensation relating to a wrongful conviction and imprisonment. HRS § 661B-7(a). The petition for relief must be filed in circuit court. HRS § 661B-2(a). Chapter 661B's statute of limitations and appeal rights indicate the Legislature's intent that petitions for 661B relief be stand-alone civil actions. *See* HRS §§ 661B-4 and 661B-5; *see also State v. Guity*, 153 Hawai'i 368, 538 P.3d 780 (Haw. Ct. App. 2023), *cert. granted*, SCWC-21-0000531, 2024 WL 397611 (Haw. Feb. 2, 2024).

The Schweitzers should have initiated a separate and new civil action in the Circuit Court with their 661B Petition instead of filing it in the Special Proceedings. Their reluctance to do so could be due to concerns the Schweitzers cannot meet HRS ch. 661B-1(b)(1)'s pleading requirement, *i.e.*, the Circuit Court decision vacating the judgment of conviction must state the Schweitzers were "actually innocent".<sup>2</sup>

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<sup>2</sup> HRS § 661B-1(b) states:

To present an actionable claim against the State for wrongful conviction and imprisonment, the petitioner shall allege that the petitioner was convicted of one



Had the Schweitzers' 661B Petition properly commenced a new and separate civil action, HRS § 661B-2(a)-(b) would have obviously applied. HRS § 661B-2(a)-(b) provides:

- (a) A petition for relief filed pursuant to this chapter **shall be filed in the circuit court of the circuit in which the petitioner lives**, or if the petitioner lives outside the State, in the circuit court of the first circuit. **The petitioner shall serve the petition upon the attorney general, and if the prosecuting authority was other than the attorney general, upon the prosecuting authority.** The petition shall set forth the facts and authority that support the petitioner's claim.
- (b) No later than sixty days after service, **the attorney general shall file with the court an answer** that shall either admit that the petitioner is entitled to compensation or deny the petitioner's claim.

If the attorney general admits that the petitioner is entitled to compensation, the court shall conduct a trial to determine the amount of compensation; provided that if the attorney general and the petitioner agree on the amount of the compensation, the court may issue a final judgment awarding the petitioner the amount agreed upon or, in its discretion, conduct a trial to determine the amount to award the petitioner.

If the attorney general denies that the petitioner is entitled to compensation, then the court shall conduct a trial to determine if the petitioner is entitled to compensation and the amount, if any.

HRS § 661B-2(a)-(b) (emphases added).

If, in answering the 661B Petition, the attorney general denied the Schweitzers were entitled to compensation, then the 661B action would proceed pursuant to the HRCP. If HPD received a subpoena duces tecum as part of the 661B civil action like the Special Proceedings' Subpoena served on August 1, 2024, HPD would respond as it did with a Motion to Quash based

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or more crimes under the laws of the State, was subsequently sentenced to a term of imprisonment, and has served all or any part of the sentence and either that:

(1) The judgment of conviction was reversed or vacated because the petitioner was ***actually innocent*** of the crimes for which the petitioner was convicted, ***and the court decision so states***; or

(2) The petitioner was pardoned because the petitioner was actually innocent of the crimes for which the petitioner was convicted and the pardon so states.

upon the provisions of HRS ch. 92F. HRS ch. 92F precludes production and/or disclosure of law enforcement records pertaining to an active and ongoing criminal investigation. HPD is fully aware that while police reports that are part of a pending investigation at the time of the request may be withheld based on the law enforcement record exemption and the frustration exception to disclosure to avoid impeding an ongoing investigation, it would need to disclose such records upon the investigation closing with a newly made request. OIP Op. Ltr. No. F20-04, 2020 WL 3629605, at \*9 (Hawai‘i A.G. June 10, 2020) (citing *Seagull Mfg. Co. v. NLRB*, 741 F.2d 882, 886-887 (6th Cir. 1984).

If a determination of actual innocence is not a condition precedent for a ch. 661B-claim but rather actual innocence can be determined in a ch. 661-action, and discovery regarding innocence is allowed in a ch. 661B, the Schweitzers could arguably file their Innocence Motion in their ch. 661B-action.

As aptly pointed out in *Guity*, the legislative intent behind HRS ch.661B is as follows: “The purpose of this measure is to provide compensation and expungement of conviction to persons ***who can demonstrate they were wrongfully convicted and imprisoned when actually innocent.***” *Guity*, 153 Hawai‘i at 375 (citing H. Stand. Comm. Rep. No. 411-16, in 2016 House Journal, at 903). In *Guity*, the Intermediate Court of Appeals held that a court judgment does not require the addition of the precise words, “actually innocent” to make a claim for redress, but instead the court reviewing the 661 Petition can make reasonable factual interpretations to determine actual innocence. *Guity*, 153 Hawai‘i at 376-377. The *Guity* opinion is also consistent with additional statutory language within HRS § 661-2(b), which requires that a trial be conducted to determine if a petitioner is entitled to compensation.

Here, within a properly initiated 661 Petition, the Schweitzers would be required to establish the existence of circumstances as an equivalent to a specific determination of actual innocence.

### **C. HRCP Rule 26 Would Apply To A Properly Initiated 661B Action**

Had the Schweitzers' 661B Petition been properly initiated and filed as a separate stand alone civil actions, HRCP Rule 26 would apply to discovery conducted therein. HRS § 661-2(b) allows for a trial to determine entitlement to compensation and the amount, if any. Therefore, it is reasonable to conclude that discovery could occur in the ch. 661B action pursuant to HRCP Rules 26-37, and 45. Therefore, had the attorney general received a request for the law enforcement records relating to the active and ongoing criminal investigation in question pursuant to HRCP Rule 26, the requested materials would be subject to protection under HRCP Rule 26(b)(6). See *Mehau v. Gannett Pacific Corp.*, 66 Haw. 133 (1983).

This Court, in *Mehau*, recognized “pendency of a criminal investigation is a reason for denying discovery of investigative reports” *Id.* at 156 (citing *Swanner v. United States*, 406 F.2d 716, 719 (5th Cir. 1969)). The *Mehau* Court further determined that in granting a privilege to maintain the confidentiality of documents pertaining to an ongoing police investigation, the “[p]ublic interest in preservation of confidentiality and secrecy may be sufficient reason for insulation of police or other governmental records from discovery in special, individual cases” *Id.* at 155 (citing *Tighe v. City & County*, 55 Haw. 420 , 422 (1974)). The privilege and/or protection would not be absolute but would be available for a “reasonable terminus.” *Id.* at 156 (citing *Capitol Vending Co. v. Baker*, 35 F.R.D. 510, 511 (D.C.C. 1964)).

The Subpoena, served to HPD on August 1, 2024, requests documents related to the very recent developments in the Dana Ireland murder case. The developments are so new, in fact, that

many of the requested law enforcement records are not yet available because the criminal investigation is not yet complete. HPD recognizes that it does not have an absolute privilege to maintain the confidentiality of the requested records. It merely asserts the requested law enforcement documents remain confidential *at this time* so HPD can complete witness interviews, fully examine cell phone data, and be allowed time to follow-up on any additional leads that may arise. If the records are released prematurely, the integrity of the active and current criminal investigation is expected to be lost. In a properly filed 661B Petition, HPD's current position would be consistent with the holdings in *Mehau v. Gannett Pacific Corp.*, 66 Haw. 133 (1983) (recognizing a qualified privilege to maintain the confidentiality of law enforcement records related to an ongoing criminal investigation) and *Kaneshiro v. Au*, 67 Haw. 442 (1984) (recognizing the police department has a qualified privilege with respect to investigatory files).

**D. HRE 501 Does Apply to the Issue Raised in HPD's Petition and Would Apply to a Properly Filed 661B Action**

The Hawai'i Rules of Evidence ("HRE") Rule 501 is applicable to the Schweitzers' demand in the Subpoena to produce law enforcement records pertaining to the active and ongoing criminal investigation. HRE 501 would also apply to a 661B Petition properly filed as its own separate civil action and the matter went to trial. HRE § 501 states:

**Except as** otherwise required by the Constitution of the United States, the Constitution of the State of Hawaii, or **provided by** Act of Congress or **Hawaii statute**, and except as provided in these rules or in other rules adopted by the Supreme Court of the State of Hawaii, no person has a privilege to:

- (1) Refuse to be a witness; or
- (2) Refuse to disclose any matter; or
- (3) Refuse to produce any object or writing; or
- (4) Prevent another from being a witness or disclosing any matter or producing any object or writing.

HRE § 501 (emphasis added).

HRE Rule 501 governs the use of such requested information at *trial*, which is contemplated in HRS § 661B-2(b). Pursuant to Rule 501, HPD asserts the subpoenaed law enforcement records are subject to qualified privilege through HRS Chapter 92F, Uniform Information Practices Act (“UIPA”) and as recognized in *Mehau v. Gannett Pacific Corp.*, 66 Haw. 133, 156 (1983) and *Kaneshiro v. Au*, 67 Haw. 442, 446 (1984). In many respects, the exceptions to disclosure of records related to an ongoing criminal investigation found HRS § 92F-13 mirror the qualified privileges recognized by prior caselaw in relation to HRE § 501.

UIPA, passed in 1988 after the *Tighe*, *Mehau*, and *Kaneshiro* opinions were published, and its provisions, which qualify as exceptions provided by Hawaii statute, requires disclosure of government records except where disclosure would frustrate a legitimate government function. HRS § 92F-13. In the instant case, the legitimate government function is the active and ongoing criminal investigation related to recent developments into the murder of Dana Ireland. The subpoenaed records include, though are not limited to, the autopsy report of Mr. Lauro and witness interviews of family members, friends, or others. These are the very types of documents HRS § 92F-13 recognizes should remain confidential until such time as the investigation concludes. See OIP Op. Ltr. No. F20-04, 2020 WL 3629605, at \*9 (Hawaii A.G. June 10, 2020) (stating law enforcement records may be withheld under HRS § 92F-13(3) if the police department establishes specific facts demonstrating a related criminal case is under investigation and that disclosure of the records would disrupt or harm that investigation); OIP Op. Ltr. No. 91-32, 1991 WL 47429, at \*8 (Hawaii A.G. December 31, 1991 (stating autopsy reports maintained by each county are subject to the provisions of the UIPA and we conclude that when connected with a civil or criminal law enforcement investigation, autopsy reports may be withheld from

public inspection and copying under HRS § 92F-13(3). However, once the investigation and subsequent prosecution, if any, is concluded, we believe that autopsy reports should be made available for public inspection.)

HRS § 92F-13 contains the exceptions contemplated at the outset of HRE § 501 “provided by . . . Hawaii statute. HRE § 501. Therefore, HRE § 501 would apply to prevent the premature disclosure of law enforcement records related to an ongoing criminal investigation until the investigation is complete because HRS § 92F-13(3) provides this qualified privilege.

### **III. CONCLUSION**

If the Schweitzers properly commenced a ch. 661B action, HRS § 661B-2(a)-(b), HRCF Rule 26, and HRE § 501 would apply, and the qualified privilege allowing HPD to withhold the requested information connected to an ongoing criminal investigation would preclude disclosure until the investigation is complete. As to HRPP Rule 40(c)(3), to the extent the 661B Petition filed within the Special Proceedings constitutes a post-conviction Petition, it would be treated as a civil complaint not governed by this rule.

Based on the foregoing arguments, authorities and the records filed in this matter, Petitioner respectfully requests this Court grant the Petition and issue a Writ of Mandamus directing Respondent to maintain the confidentiality of the requested law enforcement records, at this time, to allow for the completion of the criminal investigation.

Dated: Hilo, Hawai‘i, September 5, 2024.

HAWAI‘I POLICE DEPARTMENT, COUNTY  
OF HAWAI‘I

By: /s/ E. Britt Bailey  
E. BRITT BAILEY  
Deputy Corporation Counsel  
Its Attorney

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0000017

CERTIFICATE OF SERVICE

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the forgoing document was served on the parties identified below by electronic filing through the JEFS Court electronic filing on

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