

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

AUG 29 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

GEORGE K. YOUNG, Jr.,

Plaintiff-Appellant,

STATE OF HAWAII,

Intervenor-Pending,

v.

STATE OF HAWAII; NEIL
ABERCROMBIE, in his capacity as
Governor of the State of Hawaii; DAVID
MARK LOUIE I, Esquire, in his capacity as
State Attorney General; COUNTY OF
HAWAII, as a sub-agency of the State of
Hawaii; WILLIAM P. KENOI, in his
capacity as Mayor of the County of Hawaii;
HILO COUNTY POLICE DEPARTMENT,
as a sub-agency of the County of Hawaii;
HARRY S. KUBOJIRI, in his capacity as
Chief of Police; JOHN DOES, 1-25; JANE
DOES, 1-25; DOE CORPORATIONS, 1-5;
DOE ENTITIES, 1-5,

Defendants-Appellees.

No. 12-17808

D.C. No.

1:12-cv-00336-HG-BMK

District of Hawaii,

Honolulu

ORDER

Before: O'SCANNLAIN, CLIFTON, and IKUTA, Circuit Judges.

The State of Hawaii's motion to intervene pursuant to 28 U.S.C. § 2403(b), filed on August 16, 2018, is **DENIED** as unnecessary. The State of Hawaii is, and remains, a party to this appeal during the pendency of any en banc proceedings,

since Young filed a notice of appeal with respect to the district court's dismissal of his claims against both the State and the County. While we dismissed the appeal against the State, such dismissal is not effective until the mandate issues in this case. *See* Fed. R. App. P. 41.

We *sua sponte* extend the time for the State of Hawaii to file a petition for rehearing or rehearing en banc until September 14, 2018—the current deadline for the County of Hawaii to file any such petition.

Judge Clifton dissents from the denial of the unopposed motion to intervene. He would grant it.