

**Electronically Filed
Supreme Court
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SCPW-12-0000979

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

MICHAEL C. TIERNEY, Petitioner,

vs.

DISTRICT COURT OF THE FIRST CIRCUIT,
HONOLULU DIVISION, STATE OF HAWAI‘I, Respondent.

ORIGINAL PROCEEDING

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

(By: Recktenwald, C.J., Nakayama, Acoba, McKenna, and Pollack, JJ.)

Upon consideration of petitioner Michael C. Tierney’s petition for a writ of mandamus, which was filed on November 2, 2012, and the record, it appears that petitioner fails to demonstrate a clear and indisputable right to relief. On October 25, 2012, the district court entered an order granting the State of Hawai‘i’s request to nolle prosequi the case without prejudice. Mandamus relief, therefore, is not warranted. See Kema v. Gaddis, 91 Hawai‘i 200, 204-05, 982 P.2d 334, 338-39 (1999) (A writ of mandamus is an extraordinary remedy that will

not issue unless the petitioner demonstrates a clear and indisputable right to relief and a lack of alternative means to redress adequately the alleged wrong or obtain the requested action. Such writs are not intended to supersede the legal discretionary authority of the lower courts, nor are they intended to serve as legal remedies in lieu of normal appellate procedures). Accordingly,

IT IS HEREBY ORDERED that the petition for a writ of mandamus is denied.

DATED: Honolulu, Hawai'i, December 17, 2012.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

