

**Electronically Filed
Supreme Court
SCPW-13-0002327
08-AUG-2013
12:43 PM**

SCPW-13-0002327

IN THE SUPREME COURT OF THE STATE OF HAWAII

GERALD VILLANUEVA, Petitioner,

vs.

STATE OF HAWAII, Respondent.

ORIGINAL PROCEEDING
(CR. No. 96-0078, No. 20220)

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

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

On July 24, 2013, the court received a document submitted by petitioner Gerald Villanueva entitled "Newly Discovered Evidence Pursuant to HRAP Rule 27(c)" in which petitioner asks the court to fix or correct his sentence. The caption of the document references Appeal No. 20220, which is closed, and, therefore, the document was filed as a petition for a writ of mandamus on July 24, 2014. Upon consideration of the petition, the documents attached thereto and submitted in support thereof, and the record, it appears that petitioner is seeking similar relief in CAAP-13-0001903 and can raise the issues he presents here in the pending appeal. Petitioner, therefore, is

not entitled to mandamus relief. See Kema v. Gaddis, 91 Hawai'i 200, 204, 982 P.2d 334, 338 (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). Accordingly,

IT IS HEREBY ORDERED that the appellate clerk shall process the petition for a writ of mandamus without payment of the filing fee.

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

IT IS HEREBY FINALLY ORDERED that the appellate clerk is directed not to accept any filings in Appeal No. 20220, which is closed.

DATED: Honolulu, Hawai'i, August 8, 2013.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

