

**Electronically Filed
Supreme Court
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SCPW-13-0000657

IN THE SUPREME COURT OF THE STATE OF HAWAII

BERNARDINO RAGASA, JR., Petitioner,

vs.

NETTIE SIMMONS, OFFENDER MANAGEMENT OFFICE
OF THE DEPARTMENT OF PUBLIC SAFETY, Respondent.

ORIGINAL PROCEEDING
(Cr. No. 07-1-1535)

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

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

Upon consideration of petitioner Bernardino Ragasa, Jr.'s petition for a writ of mandamus, which was filed on May 3, 2013, the documents attached thereto and submitted in support thereof, and the record, it appears that petitioner fails to demonstrate that he has a clear and indisputable right to 497 days of presentence credit or that respondent miscalculated his presentence credit. Moreover, petitioner previously sought similar relief in the circuit court by way of a HRPP Rule 40 petition (S.P.P. No. 10-1-0076), the circuit court denied the

HRPP Rule 40 petition, and petitioner did not appeal from the circuit court's decision. Petitioner 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); HRS § 706-671 (1993) (a defendant is entitled to credit for time served in presentence incarceration in connection with the same offense; a defendant is not entitled to presentence credit for time served in connection with an unrelated criminal offense). Accordingly,

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

DATED: Honolulu, Hawai'i, June 12, 2013.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

