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Supreme Court
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SCPW-12-0000831

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

MICHAEL C. TIERNEY,
Petitioner,

vs.

TED SAKAI, DIRECTOR OF PUBLIC SAFETY, STATE OF HAWAI'I,
Respondent.

ORIGINAL PROCEEDING

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

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

Petitioner Michael C. Tierney submitted a petition for a writ of mandamus, which was filed on February 8, 2013.

Petitioner seeks an order directing several state officials to provide him outside dental and medical care. Upon consideration of the petition and the documents attached thereto and submitted in support thereof, it appears that petitioner fails to demonstrate a clear and indisputable right to receive outside medical and dental treatment at the prison's expenses.

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); Barnett v. Broderick, 84 Hawai'i 109, 111, 929 P.2d 1359, 1361 (1996) (mandamus relief is available to compel an official to perform a duty allegedly owed to an individual only if the individual's claim is clear and certain, the official's duty is ministerial and so plainly prescribed as to be free from doubt, and no other remedy is available). Accordingly,

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

DATED: Honolulu, Hawai'i, March 13, 2013.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

