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Supreme Court
SCPW-14-0001024
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SCPW-14-0001024

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

CORY S. WAIALEALE, Petitioner,

vs.

KATHLEEN A. WATANABE, Judge of the Circuit Court
of the Fifth Circuit, State of Hawai‘i; BERT Y. MATSUOKA,
Chairman of the Hawai‘i Paroling Authority;
LISA M. ITOMURA, Deputy Attorney General, Respondents.

ORIGINAL PROCEEDING
(CR. NO. 02-1-0317; S.P.P. NO. 13-1-0005)

ORDER DENYING APPLICATION FOR WRIT OF MANDAMUS
(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

Upon consideration of Petitioner Cory Waialeale’s application for writ of mandamus, filed on July 29, 2014, the documents attached thereto and submitted in support thereof, and the record, it appears that Petitioner is seeking similar relief in the circuit court and Petitioner fails to demonstrate that he has a clear and indisputable right to a favorable decision or that the Respondent Judge committed a flagrant and manifest abuse of discretion in presiding over the post-conviction proceeding to date. Petitioner, therefore, is not entitled to the requested writ of mandamus. 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); Honolulu Advertiser, Inc. v. Takao, 59 Haw. 237, 241, 580 P.2d 58, 62 (1978) (a writ of mandamus is not intended to supersede the legal discretionary authority of the trial courts, cure a mere legal error, or serve as a legal remedy in lieu of normal appellate procedure; rather, it is meant to restrain a judge of an inferior court who has exceeded his or her jurisdiction, has committed a flagrant and manifest abuse of discretion, or has refused to act on a subject properly before the court under circumstances in which he or she has a legal duty to act); In re Disciplinary Bd. of Hawai'i Supreme Court, 91 Hawai'i 363, 368, 984 P.2d 688, 693 (1999) (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 application for a writ of mandamus is denied.

DATED: Honolulu, Hawai'i, August 14, 2014.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

