

**Electronically Filed
Supreme Court
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SCPW-16-0000589

IN THE SUPREME COURT OF THE STATE OF HAWAII

HERMAN-LEE KAOPUA, SR., Petitioner,

vs.

TRACY MURAKAMI, Respondent.

ORIGINAL PROCEEDING
(S.P.P. NO. 12-1-0007)

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

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

Upon consideration of petitioner Herman-Lee Kaopua, Sr.'s document entitled, "Writ of Mandamus 21(b)[] HRAP," which was filed on August 23, 2016, and which we construe as a petition for writ of mandamus, court-appointed counsel Melinda Mendes' answer, filed on October 3, 2016, the multiple status updates filed by court-appointed counsel on January 5, 2017, January 19, 2017, February 3, 2017, February 16, 2017, and March 2, 2017 regarding assisting petitioner in filing a "proper" HRPP Rule 40 petition, the respective supporting documents, and the record, it appears that the more appropriate course of relief at this juncture is for the circuit court to ascertain the current status of the case and proceed therewith. Accordingly,

IT IS HEREBY ORDERED that the petition for writ of mandamus is granted to the extent that the circuit court shall determine the status of the post-conviction proceeding and proceed accordingly. The appellate clerks' office shall serve a copy of this order on petitioner, court-appointed counsel, and the circuit court of the fifth circuit.

DATED: Honolulu, Hawai'i, March 15, 2017.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

