

NO. 30524

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

EVERETT SPEARS, Petitioner,

vs.

CLAYTON FRANK, DIRECTOR OF THE DEPARTMENT OF
PUBLIC SAFETY, STATE OF HAWAI'I, Respondent.

ORIGINAL PROCEEDING
(CR. NO. 00-1-0333)

ORDER

(By: Moon, C.J., Nakayama, Acoba, Duffy, and Recktenwald, JJ.)

Upon consideration of Everett Spears' petition for a writ of habeas corpus, it appears that petitioner seeks habeas corpus relief in the supreme court from the sentence imposed on petitioner in Cr. No. 00-1-0333. However, the record of Cr. No. 00-1-0333 shows that petitioner is seeking relief from his sentence in the circuit court by papers filed on July 22, 2008 ("motion for writ"), March 16, 2010 ("motion for writ"), May 11, 2010 (motion for appointment of counsel), and May 18, 2010 ("motion to clarify sentence") -- all of which are pending before the circuit court, and petitioner fails to demonstrate that the circuit court has, in fact, refused to file a "writ of habeas corpus" submitted by petitioner. Therefore, petitioner presents no special reason for invoking the supreme court's original jurisdiction. See Oili v. Chang, 57 Haw. 511, 512, 557 P.2d 787, 788 (1976). Accordingly,

IT IS HEREBY ORDERED that the clerk of the appellate court shall process the petition for writ of habeas corpus without payment of the filing fee.

IT IS FURTHER ORDERED that the petition for a writ of habeas corpus is denied without prejudice to seeking habeas corpus relief in the circuit court pursuant to HRS § 660-3 (1993).

DATED: Honolulu, Hawai'i, June 15, 2010.