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Supreme Court
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NO. SCPW-10-0000248

IN THE SUPREME COURT OF THE STATE OF HAWAII

MICHAEL C. TIERNEY, Petitioner,

vs.

LINDA MOGA RIVERA, Inmate Grievance Specialist,
Halawa Correctional Facility, Respondent.

ORIGINAL PROCEEDING

ORDER

(By: Recktenwald, C.J., Nakayama, Acoba, and Duffy, JJ., and
Circuit Judge Kim, assigned by reason of vacancy)

Upon consideration of petitioner Michael C. Tierney's petition for a writ of mandamus and the papers in support, it appears that petitioner fails to demonstrate a clear and indisputable right to relief. Therefore, petitioner is not entitled to extraordinary relief. See HRS § 602-5(3) (2009) ("The supreme court shall have jurisdiction and power . . . [t]o exercise original jurisdiction in all questions . . . arising under writs of mandamus directed to public officers to compel them to fulfill the duties of their offices[.]"); 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.); In re. Disciplinary Bd. Of the Hawaii 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 clerk of the appellate court shall process the petition for a writ of mandamus without payment of the filing fee.

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

DATED: Honolulu, Hawai'i, January 10, 2011.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ James E. Duffy, Jr.

/s/ Glenn J. Kim

