

Electronically Filed
Supreme Court
SCPW-12-0000417
26-APR-2012
09:21 AM

NO. SCPW-12-0000417

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

MYLES D. SAPUTO, Petitioner,

vs.

THE HONORABLE BLAINE J. KOBAYASHI, JUDGE OF THE DISTRICT
COURT OF THE SECOND CIRCUIT, STATE OF HAWAI'I, Respondent.

ORIGINAL PROCEEDING

ORDER DENYING PETITION

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

By letters dated April 11, 2012, Myles D. Saputo seeks review of the actions of Second Circuit District Judge Blaine Kobayashi in Case No. 2RC10-1-004119, City Bank v. Myles D. Saputo. We view the letters as a petition for writ of mandamus.

A writ of mandamus and/or prohibition is an extraordinary remedy that will not issue unless the petitioner demonstrates a clear and indisputable right to the relief requested and a lack of other means to redress adequately the alleged wrong or to obtain the requested action. Straub Clinic & Hospital v. Kochi, 81 Hawai'i 410, 414, 917

P.2d 1284, 1288 (1996). Such writs are not meant to supersede the legal discretionary authority of the lower court, nor are they meant to serve as legal remedies in lieu of normal appellate procedures. *Id.* Where a trial court has discretion to act, mandamus will not lie to interfere with or control the exercise of that discretion, even when the judge has acted erroneously, unless the judge 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 it has a legal duty to act.

Kema v. Gaddis, 91 Hawai'i 200, 204-205, 982 P.2d 334, 338-339 (1999).

Petitioner Saputo's letters make a number of allegations, but provide nothing from the court record to support the allegations, and review of the public docket for case number 2RC10-1-004119 reveals the case is pending in the district court. Petitioner will have the opportunity to seek review by way of appeal after judgment is entered in case number 2RC10-1-004119. Therefore,

IT IS HEREBY ORDERED that the Clerk shall file Petitioner Saputo's letters as a petition for writ of mandamus, without payment of the filing fee.

IT IS FURTHER ORDERED that the Petition is denied. This denial is without prejudice to any timely appeal, complaint

to the Commission on Judicial Conduct, or other lawful means of seeking redress.

DATED: Honolulu, Hawai'i, April 26, 2012.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ James E. Duffy, Jr.

/s/ Sabrina S. McKenna

