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Supreme Court
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SCPW-13-0000079

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

MICHAEL C. TIERNEY, Petitioner,

vs.

BERT Y. MATSUOKA; MICHAEL A. TOWN, JOYCE
MATSUMORI-HOSHIJO, of the Hawaii Paroling Authority, Respondents.

ORIGINAL PROCEEDING

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

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

Upon consideration of petitioner Michael C. Tierney's petition for a writ of mandamus, which was filed on February 7, 2013, and the motion to amend the petition for a writ of mandamus, which was filed on February 25, 2013 and granted on February 28, 2013, it appears that petitioner fails to demonstrate that the Hawai'i Paroling Authority owes him a duty to discharge him from his sentence and provide him gate money and clothes. See HRS § 706-670(4) (1993) (the granting of parole is within the discretion of the HPA and is not a ministerial duty subject to mandamus relief). Petitioner, therefore, is not entitled to mandamus relief. 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); 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); Salling v. Moon, 76 Hawai'i 273, 274 n.3, 874 P.2d 1098, 1099 n.3 (1994) ("A duty is ministerial where the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion and judgment."). Accordingly,

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

DATED: Honolulu, Hawai'i, March 15, 2013.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

