

**Electronically Filed
Supreme Court
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SCPW-15-0000339

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

NELSON WAIKIKI, JR., Petitioner,

vs.

THE HONORABLE RHONDA LOO, JUDGE OF THE CIRCUIT COURT OF THE
SECOND CIRCUIT, STATE OF HAWAI'I, Respondent Judge,

and

STATE OF HAWAI'I, Respondent.

ORIGINAL PROCEEDING
(CR. NO. 13-1-0428)

ORDER DENYING WITHOUT PREJUDICE PETITION FOR WRIT OF MANDAMUS
(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

Upon consideration of Petitioner Nelson Waikiki Jr.'s "Petition for Extraordinary Writ of Mandamus," filed on April 15, 2015, the documents attached thereto and submitted in support thereof, and the record, it appears that Petitioner is seeking the requested relief in the circuit court proceeding. Petitioner, therefore, fails to demonstrate that he lacks alternative means to seek relief or that the Respondent Judge has exceeded her jurisdiction, has committed a flagrant and manifest abuse of discretion, or has refused to act on a matter in which she has a duty to act in his criminal case. Petitioner,

therefore, is not entitled to extraordinary relief. See Kema v. Gaddis, 91 Hawai'i 200, 204-05, 982 P.2d 334, 338-39 (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; where a 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 he or she has a legal duty to act). Accordingly,

IT IS HEREBY ORDERED that the appellate clerks' office shall file the petition for a writ of mandamus without payment of the filing fee.

IT IS HEREBY FURTHER ORDERED that the petition for a writ of mandamus is denied without prejudice to Petitioner seeking relief in the circuit court, as appropriate.

DATED: Honolulu, Hawai'i, April 28, 2015.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

