

**Electronically Filed
Supreme Court
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SCPW-15-0000740

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

HERMAN-LEE KAOPUA, SR., Petitioner,

vs.

THE HONORABLE RANDAL G. B. VALENCIANO, JUDGE OF THE CIRCUIT COURT
OF THE FIFTH CIRCUIT, STATE OF HAWAI'I, Respondent Judge,

and

STATE OF HAWAI'I, Respondent.

ORIGINAL PROCEEDING
(S.P.P. NO. 12-1-0007; CR. NO. 01-1-0185)

ORDER DENYING PETITION FOR WRIT OF MANDAMUS
(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

Upon consideration of petitioner Herman-Lee Kaopua, Sr.'s petition for a writ of mandamus, filed on October 13, 2015, the documents attached thereto and submitted in support thereof, and the record, it appears that petitioner fails to demonstrate that he has a clear and indisputable right to the requested relief or a lack of alternative means to seek relief at this time. Petitioner is currently represented by court-appointed counsel, Mark Zenger, Esq., in S.P.P. No. 12-1-0007, and may seek

counsel's assistance with regard to S.P.P. No. 12-1-0007. 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; rather, it is meant to restrain a judge of an inferior court who 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 clerk of the appellate court shall process 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.

IT IS HEREBY FINALLY ORDERED that the appellate clerks' office shall forward a copy of the petition and this order to petitioner's court-appointed counsel, Mark Zenger, Esq.

DATED: Honolulu, Hawai'i, November 4, 2015.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

