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SCPW-20-0000200 and SCPW-20-0000213

IN THE SUPREME COURT OF THE STATE OF HAWAII

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SCPW-20-0000200

OFFICE OF THE PUBLIC DEFENDER, Petitioner,

vs.

CLARE E. CONNORS, Attorney General of the State of Hawaii;  
DONALD S. GUZMAN, Prosecuting Attorney, County of Maui;  
MITCHELL D. ROTH, Prosecuting Attorney, County of Hawaii;  
JUSTIN F. KOLLAR, Prosecuting Attorney, County of Kauai;  
DWIGHT K. NADAMOTO, Acting Prosecuting Attorney, City and County  
of Honolulu, Respondents.

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SCPW-20-0000213

STATE OF HAWAII OFFICE OF THE PUBLIC DEFENDER, Petitioner,

vs.

DAVID Y. IGE, Governor, State of Hawaii; NOLAN P. ESPINDA,  
Director, State of Hawaii Department of Public Safety;  
EDMUND (FRED) K.B. HYUN, Chairperson, Hawaii Paroling Authority,  
Respondents.

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ORIGINAL PROCEEDING

ORDER CONCLUDING MATTERS IN THIS CONSOLIDATED PROCEEDING  
(By: Recktenwald, C.J., Nakayama, McKenna, and Pollack, JJ.,  
with Wilson, J., dissenting)

On May 28, 2020, Special Master Daniel R. Foley ("Special Master") filed his Fifth Summary Report and Recommendations with five exhibits ("Fifth Summary Report"). The Fifth Summary Report provides an update on implementation of this court's orders as well as other efforts and progress in this consolidated proceeding. Upon consideration of the Fifth Summary Report, including the exhibits, and the record, we note and conclude that:

(1) In late March, in the early days of the unprecedented public health emergency, the Office of the Public Defender ("OPD") sought emergency action by this court to address the threat of the COVID-19 pandemic on inmates and staff at Hawai'i's correctional centers and facilities. At the time, the potential catastrophic impact of the pandemic on our State, the community, our citizens, and our correctional centers and facilities was not determinable. There were lockdowns across the nation, the death toll was rising, and numerous other states had taken steps towards releasing inmates from correctional facilities. In response to the petitions for emergency action resulting from the pandemic, this court declined to order a blanket release of certain categories of inmates and, instead, appointed a Special Master to work with the parties in a

collaborative and expeditious manner to address the issues raised in the two petitions and to facilitate a resolution while protecting public health and public safety. As part of the process, this court instituted procedures for expedited consideration by the courts of individual release motions, which included an opportunity for objection to the release based on public safety and other considerations. Today, although the pandemic continues, the rate of new infections in Hawai'i remains at very low levels.

(2) Much of the urgent relief requested in the two petitions has been addressed. All of the OPD motions for early release filed pursuant to this Court's April 15, 2020 order were adjudicated by April 28, 2020.

(3) For inmates who were released, whether pursuant to this expedited review process or otherwise, the State continues to have the option of filing individual motions seeking to modify the release status of any defendant. Similarly, the OPD or defense counsel may file individual motions seeking the release of any inmate.

(4) Further issues regarding inmate populations at correctional facilities may be addressed through alternative means, including collaboration with the Hawai'i Correctional Systems Oversight Commission, which was established by the Hawai'i State Legislature pursuant to Act 179, Session Laws

Hawai'i 2019, to, among other things, establish maximum inmate population limits for each correctional facility and formulate policies and procedures to prevent the inmate population from exceeding the capacity of each correctional facility.

This court extends its deep appreciation to the Special Master for working on this matter during this difficult and unprecedented time, as well as the efforts that have been undertaken by the parties, the amici, and the many stakeholders in this consolidated proceeding.

Accordingly,

IT IS HEREBY ORDERED that this consolidated proceeding is concluded. As a result, the service of the Special Master is completed as of the date of this order. This order constitutes the final order of this consolidated proceeding.

DATED: Honolulu, Hawai'i, June 5, 2020.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

