

**Electronically Filed
Supreme Court
SCPW-20-0000580
15-OCT-2020
01:50 PM
Dkt. 12 ODDP**

SCPW-20-0000580

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

DUANE KAAPEA KAAIALII, Petitioner

vs.

THE HONORABLE FA'AUUGA TO'OTO'O, Judge of the Circuit Court of the
First Circuit, State of Hawai'i, Respondent Judge,

and

STATE OF HAWAI'I, Respondent.

ORIGINAL PROCEEDING

ORDER DENYING PETITION FOR WRIT OF MANDAMUS
(By: Recktenwald, C.J., Nakayama, McKenna, and Wilson, JJ.,
and Circuit Judge Kawano, assigned by reason of vacancy)

Upon consideration of petitioner Duane Kaaapea Kaaialii's petition for writ of mandamus, filed on September 27, 2020, 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, that he lacks alternative means to seek relief, or that the respondent judge committed a flagrant and manifest abuse of discretion in denying his motions for release. Petitioner, therefore, is not entitled to the requested extraordinary writ from this court. 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 petition for writ of mandamus is denied.

IT IS HEREBY FURTHER ORDERED that the clerk of the appellate court shall process the petition for writ of mandamus without payment of the filing fees.

DATED: Honolulu, Hawai'i, October 15, 2020.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Michael D. Wilson

/s/ Kelsey T. Kawano

