

Electronically Filed  
Supreme Court  
SCPW-20-0000774  
16-FEB-2021  
01:47 PM  
Dkt. 9 ORDDS

SCPW-20-0000774

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

---

DENNIS C. DEREGO, PETITIONER,

vs.

STATE OF HAWAI‘I, RESPONDENT.

---

ORIGINAL PROCEEDING  
(CASE NO. 2FC151000209)

DISSENT TO ORDER DENYING PETITION FOR WRIT OF MANDAMUS  
(BY: Wilson, J.)

Petitioner, Dennis C. Derego’s request to be released under court supervision, including parole, is based, in part, on the allegedly unconstitutional nature of his conditions of incarceration. Five inmates incarcerated at the Halawa Correctional Facility have died of COVID-19 during the month of January.<sup>1</sup> Petitioner is sixty-years-old and alleges that he has “pre-existing . . . high risk” medical conditions. He states

---

<sup>1</sup> See Press Release, Off. of Governor of Haw., Five Hawaii Inmate Deaths Classified as COVID-19 Related (Feb. 5, 2021), <https://governor.hawaii.gov/newsroom/psd-news-release-five-hawaii-inmate-deaths-classified-as-covid-19-related/>.

that social distancing is "impossible" where "[inmates] line up each day 'three times' in lines of sixty shoulder to shoulder, walking to the chow hall and eating sixty to a room and back." He states that "[m]any [adult correctional officers] and personel [sic] do not wear proper mask's [sic], using scarfs and/or wearing masks improperly (not covering nose [sic]) even removing masks in chow hall, modules and other areas."

The gravity of the ongoing COVID-19 emergency declared by Governor David Y. Ige and the conditions described by Petitioner require the Department of Public Safety to respond to his petition before we can determine whether the Petition should be denied. See Hawai'i Rule of Appellate Procedure 21(c).<sup>2</sup> Accordingly, I respectfully dissent to the decision of the Majority to deny Petitioner's request for a writ of mandamus without first requiring a response by the Department of Public Safety.

DATED: Honolulu, Hawai'i, February 16, 2021.

/s/ Michael D. Wilson



---

<sup>2</sup> See also Amended Dissent Re: Order Concluding Matters In This Consolidated Proceeding, Off. of Pub. Def. v. Ige, SCPW-20-0000213, docket #191, filed June 8, 2020; Amended Dissent, In re Individuals in Custody of Hawai'i, SCPW-20-0000509, docket #19, filed Aug. 17, 2020.