

**Electronically Filed
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SCPW-20-0000509

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

IN THE MATTER OF INDIVIDUALS IN CUSTODY
OF THE STATE OF HAWAI‘I

ORIGINAL PROCEEDING

ORDER CONCLUDING PROCEEDING

(By: Recktenwald, C.J., Nakayama, and McKenna, JJ.,
and Chief Judge Ginoza, assigned by reason of vacancy,
with Wilson, J., dissenting)

On August 12, 2020, as a result of a surge in COVID-19 positive cases primarily at the O‘ahu Community Correctional Center, the Office of the Public Defender (“OPD”) filed a petition for an extraordinary writ seeking, among other things, the expedited release of certain categories of inmates at Hawai‘i’s community correctional centers and facilities. At the time, the pandemic’s trajectory remained uncertain and vaccinations were not available. Given the virulent spread of the virus within close quarters and the likely possibility that a spread of the virus in Hawai‘i’s community correctional centers and facilities had the potential to tax the capacities of the

health care systems and the limited resources of the community health providers on each of the islands as the State continued to navigate this unprecedented pandemic, this court set forth procedures for release consideration of inmates and pretrial detainees who met certain criteria, as well as the process for addressing certain categories of newly arrested individuals or individuals arrested for new offenses, while protecting public health and public safety.

Today, according to recent filings in this case, it appears that the rate of positive cases in Hawai'i's correctional centers and facilities has significantly declined since the petition was filed in August 2020, testing and other health and safety measures have been implemented within the correctional centers and facilities, and a vaccination program to vaccinate inmates is underway. Thus, it appears that the conditions that necessitated swift action by this court in August 2020 are no longer prevalent. Conclusion of this proceeding is therefore appropriate.

We note that the State continues to have the option of filing individual motions seeking to modify the release status of any defendant, and the OPD or defense counsel may file individual motions seeking the release of any inmate. Additionally, the trial courts will have full discretion whether to set bail and to impose conditions of release. Issues

regarding inmate populations may be addressed through alternative means, including by the Hawai'i Correctional Systems Oversight Commission, which was established by the Hawai'i State Legislature pursuant to Act 179, Session Laws of 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.

Accordingly,

IT IS HEREBY ORDERED that this original proceeding is concluded. Orders related to the release or temporary suspension of incarceration of defendants arising out of this original proceeding shall remain in effect unless otherwise modified by specific order(s) of trial courts relating to specific defendants. This order constitutes the final order of this proceeding.

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

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Lisa M. Ginoza

