

**Electronically Filed
Supreme Court
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SCPW-23-0000558

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

SAMUEL COOPER, JR.,
Petitioner,

vs.

THE HONORABLE TRISH K. MORIKAWA,
Judge of the Circuit Court of the First Circuit,
State of Hawai‘i, Respondent Judge,

and

STATE OF HAWAI‘I,
Respondent.

ORIGINAL PROCEEDING
(S.P.P. No. 1CPN-22-0000028; CASE NO. 1PC990001708)

ORDER DENYING PETITION FOR WRIT OF MANDAMUS
(By: Recktenwald, C.J., McKenna, and Eddins, JJ.,
Circuit Judge Kim and Circuit Judge Watanabe,
assigned by reason of vacancies)

Upon consideration of the letter filed on September 29,
2023, which we construe as a petition for writ of mandamus, and
the record, the circuit court denied Petitioner’s Hawai‘i Rules
of Penal Procedure (HRPP) Rule 40 petition for post-conviction

relief by order filed on October 3, 2023. Petitioner has not demonstrated a clear and indisputable right to relief, nor a lack of alternative means to seek relief. See Kema v. Gaddis, 91 Hawai‘i 200, 204, 982 P.2d 334, 338 (1999).

We also reject Petitioner’s assertion that the deputy prosecuting attorney that filed a response to the HRPP Rule 40 petition should be sanctioned or otherwise disciplined. Respondent State of Hawai‘i is allowed to file a response that objects to the arguments made in a HRPP Rule 40 petition. See HRPP Rule 40(d) (“Within 30 days after service of the petition or within such further time as the court may allow, the respondent may answer or otherwise plead, but the court may require the State to answer at any time.”).

It is ordered that the petition is denied.

DATED: Honolulu, Hawai‘i, October 23, 2023.

/s/ Mark E. Recktenwald

/s/ Sabrina S. McKenna

/s/ Todd W. Eddins

/s/ Robert D.S. Kim

/s/ Kathleen N.A. Watanabe

