

NO. 25223

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

ANIMAL CARE FOUNDATION, INC., Petitioner,

vs.

THE HONORABLE COLLETTE GARIBALDI, JUDGE OF THE DISTRICT
COURT OF THE FIRST CIRCUIT; PETER CARLISLE,
PROSECUTING ATTORNEY, CITY AND COUNTY OF HONOLULU; AND
EARL ANZAI, ATTORNEY GENERAL, STATE OF HAWAI'I, Respondents.

PETITION FOR WRIT OF MANDAMUS

ORDER

(By: Moon, C.J., Levinson, Nakayama,
Ramil, and Acoba, JJ.)

Upon consideration of Petitioner Animal Care Foundation, Inc.'s petition for a writ of mandamus, the papers in support, and the records and files herein, it appears that Petitioner asks this court to issue a writ of mandamus compelling Respondent Prosecuting Attorney Peter Carlisle, Prosecutor of the City and County of Honolulu, to present Petitioner's complaint and application for arrest warrants to the district court for decision. Petitioner also asks this court to issue a writ of mandamus directing Judge Collette Garibaldi, Judge of the District Court of the First Circuit, to make a determination of whether there is probable cause to issue arrest warrants against the defendants named in Petitioner's complaint.

A writ of mandamus is an extraordinary remedy that will not issue unless the petitioner demonstrate a clear and indisputable right to relief and a lack of other means to redress the alleged wrong or obtain the requested action. State v.

Hamili, 87 Hawai'i 102, 104, 952 P.2d 390, 392, (1998) (citing Straub Clinic & Hospital v. Kochi, 81 Hawai'i 410, 414, 917 P.2d 1284, 1288 (1996)). Such writs are not meant to supersede the legal discretionary authority of the lower courts, nor are they meant to serve as legal remedies in lieu of normal appellate procedures. Id. Where a trial court has discretion to act, mandamus clearly 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 matter properly before the court under circumstances in which the court has a legal duty to act. Id. Mandamus relief is available to compel an official to perform a duty allegedly owed to an individual only if the individual's claim is clear and certain, the official's duty is ministerial in nature and so plainly prescribed as to be free from doubt, and no other remedy is available. Barnett v. Broderick, 84 Hawai'i 109, 111, 929 P.2d 1359, 1361 (1996) (citing Azurin v. Von Raab, 803 F.2d 993 (9th Cir. 1986) cert. denied, 483 U.S. 1021 (1987)).

Petitioner fails to demonstrate that the decision regarding the filing of a criminal complaint by the prosecutor's office is a ministerial act that can be enforced through a mandamus proceeding. In addition, Petitioner fails to demonstrate that it has an indisputable right to the relief requested from the respondent judge or that it lacked alternative means to seek review of the decision made by the respondent judge. Petitioner names Attorney General Earl Anzai as a respondent but fails to demonstrate that it is entitled to any relief from him. Therefore,

IT IS HEREBY ORDERED that the petition for a writ of mandamus is denied.

DATED: Honolulu, Hawai'i, August 9, 2002.