

NO. 27125

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

JOSEPH RANDALL O'NEILL, Petitioner

vs.

STATE OF HAWAI'I, Respondent

ORIGINAL PROCEEDING

ORDER DENYING EX PARTE WRIT OF MANDAMUS

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

Upon consideration of Petitioner Joseph Randall O'Neill's ex parte writ of mandamus, the papers in support, and the records and files herein, it appears that: (1) the circuit court dismissed Petitioner's HRPP Rule 40 petition for post conviction relief, O'Neill v. State, SPP No. 04-1-009K; (2) Petitioner states he filed a notice of appeal from the dismissal of the Rule 40 petition; (3) a petition for a writ of mandamus is not intended to take the place of an appeal; and (4) Petitioner can raise any issues related to his post conviction proceeding in any appeal from the dismissal of the post conviction proceeding. Therefore,

IT IS HEREBY ORDERED that the ex parte writ of mandamus is denied without prejudice to any remedy Petitioner may have by way of appeal.

DATED: Honolulu, Hawai'i, March 4, 2005.

Joseph Randall O'Neill
petitioner, *pro se*,
on the writ