

NO. 28804

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

ALVIN JARDINE, Petitioner,

vs.

THOMAS L. READ, Administrator, Offender Management,
Department of Public Safety; NETTIE SIMMONS, Offender
Management, Department of Public Safety, Respondents.

K. HANAKAHI
CLERK, STATE SUPREME COURT

2007 NOV 19 AM 10:59

FILED

ORIGINAL PROCEEDING

ORDER

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

Upon consideration of the petition for a writ of mandamus and/or prohibition by petitioner Alvin Jardine and the papers in support, it appears that (1) petitioner fails to demonstrate that his maximum term release date, as computed by the Department of Public Safety on June 28, 2007, is not commensurate with the maximum term of imprisonment imposed by the circuit court, and (2) petitioner's challenge of his maximum term release date as not commensurate with the maximum term of imprisonment imposed by the circuit court is a challenge to the legality of petitioner's custody for which relief is available from the circuit court pursuant HRPP Rule 40 (cf. Williamson v. Hawai'i Paroling Auth., 97 Hawai'i 183, 187, 35 P.3d 210, 214 (2001)). Therefore, petitioner is not entitled to a writ of mandamus or prohibition. See Kema v. Gaddis, 91 Hawai'i 200, 204, 982 P.2d 334, 338 (1999) (A writ of mandamus or prohibition is an extraordinary remedy that will not issue unless the petitioner demonstrates a clear and indisputable right to relief

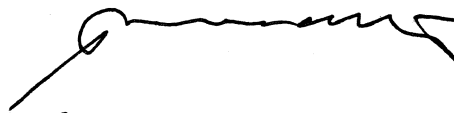
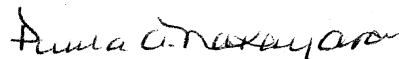
and a lack of alternative means to redress adequately the alleged wrong or obtain the requested action.). Accordingly,

IT IS HEREBY ORDERED that the petition for a writ of mandamus and/or prohibition is denied.

DATED: Honolulu, Hawai'i, November 19, 2007.



Steven H. Levinson



James E. Duggan, Jr.