

NO. 30101

IN THE SUPREME COURT OF THE STATE OF HAWAII

CLERK APPELLATE COURTS
STATE OF HAWAII
Jennifer K. Kirtava

2009 OCT 30 AM 9:29

FILED

DONALD B. MARKS, Petitioner,

vs.

STATE OF HAWAII, Respondent.

ORIGINAL PROCEEDING

ORDER

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

Upon consideration of Donald B. Marks' "application for federal writ of habeas corpus under 28 U.S.C. § 2241," which we treat as a petition for a writ of mandamus, it appears that petitioner fails to demonstrate a clear and indisputable right to relief. See Kema v. Gaddis, 91 Hawai'i 200, 204, 982 P.2d 334, 338 (1999) (A writ of mandamus 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.). Therefore,

IT IS HEREBY ORDERED that the clerk of the appellate court shall process petitioner's papers as a petition for a writ of mandamus without payment of the filing fee.

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

DATED: Honolulu, Hawai'i, October 30, 2009.

Ronald T. Y. Moon

James E. Duffy, Jr.