

**Electronically Filed
Supreme Court
SCPW-14-0001258
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SCPW-14-0001258

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

ERWIN FAGARAGAN, Petitioner,

vs.

STATE OF HAWAI‘I, Respondent.

ORIGINAL PROCEEDING

(SCWC-11-0000592; CAAP-11-0000592; S.P.P. NO. 11-1-0005(1);
CR. NOS. 04-1-0595(1) & 05-1-0090(1))

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

(By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

Upon consideration of Petitioner Erwin Fagaragan’s letter dated October 22, 2014, which was filed as a petition for a writ of mandamus on October 31, 2014, and the record, it appears that Petitioner fails to demonstrate that he has a clear and indisputable right to a March 2015 parole rehearing and Petitioner has alternative means to obtain relief. See Turner v. Hawai‘i Paroling Authority, 93 Hawai‘i 298, 306, 1 P.3d 768, 776 (2000). Petitioner, therefore, is not entitled to the requested relief from this court. 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); In re Disciplinary Bd. of Hawai'i Supreme Court, 91 Hawai'i 363, 368, 984 P.2d 688, 693 (1999) (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 and so plainly prescribed as to be free from doubt, and no other remedy is available). Accordingly,

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

IT IS HEREBY FURTHER ORDERED that the petition for a writ of mandamus is denied, without prejudice to Petitioner seeking relief, as appropriate, in the circuit court.

DATED: Honolulu, Hawai'i, December 8, 2014.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

