

NO. 26148

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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JAYSON A. VIRTUDES, Petitioner

vs.

TOMMY JOHNSON, ADMINISTRATOR, "H.P.A."; MARY J. TIWINAK, ACTING CHAIRPERSON "H.P.A."; ALBERT TUFONO, BOARD MEMBER, "H.P.A."; TED SAKAI, WARDEN, "W.C.F."; CRISTY YOKOYAMA, PROGRAM COMMITTEE CHAIRPERSON, "W.C.F."; LOIS TORIKAWA, COMMITTEE MEMBER, "W.C.F."; JULIE WAGATSUMA COMMITTEE MEMBER, "W.C.F."; CHARLES RIVERA, Tx. COUNSELOR, KASHBOX PROGRAM, "W.C.F."; STATE OF HAWAI'I; and JOHN AND MARY DOES, 1-50, Respondents/Defendants

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ORIGINAL PROCEEDING

ORDER DENYING PETITION FOR A WRIT OF MANDAMUS

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

Upon consideration of the petition for a writ of mandamus filed by Petitioner Jayson A. Virtudes and the papers in support, it appears that: (1) Petitioner is seeking a writ directing the Hawaii Paroling Authority to release him on parole; (2) 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. Barnett v. Broderick, 84 Hawai'i 109, 111, 929 P.2d 1359, 1361 (1996) (citing Straub Clinic & Hospital v. Kochi, 81 Hawai'i 410, 414, 917 P.2d 1284, 1288 (1996)); (3) 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. Barnett, 84 Hawai'i at 111, 929 P.2d at 1351 (citing Azurin v. Von Raab, 803 F.2d 993 (9<sup>th</sup> Cir. 1986) cert. denied, 483 U.S. 1021 (1987)); (4) Petitioner has an alternative to writ of mandamus, see Turner v. Hawaii Paroling Authority, 93 Hawai'i 298, 1 P.3d 768 (App. 2000); and (5) Petitioner fails to demonstrate that he is entitled to mandamus relief. Therefore,

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

DATED: Honolulu, Hawai'i, October 28, 2003.

Jayson A. Virtudes,  
petitioner pro se,  
on the petition