

NO. 29783

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

GARY KARAGIANES, Petitioner,

vs.

DEPARTMENT OF PUBLIC SAFETY, STATE OF HAWAI'I, Respondent.

ORIGINAL PROCEEDING

ORDER

(By: Moon, C.J., Nakayama, Acoba, and Duffy, JJ. and Circuit Judge Hirai, assigned by reason of vacancy)

Upon consideration of the petition for a writ of mandamus filed by petitioner Gary Karagianes and the papers in support, it appears that petitioner seeks mandamus relief against respondent by asserting that respondent unlawfully denied petitioner access to trust account funds needed for appellate expenses in No. 29572. However, respondent's March 11, 2009 response to petitioner's request to access funds for No. 29572 advised petitioner that an itemized request was required and requested that petitioner resubmit his request in itemized form. Respondent's request for resubmission was not a denial of petitioner's request to access funds for No. 29572. Petitioner resubmitted his request in itemized form on March 17, 2009 and petitioner provides no evidence that respondent denied the March 17, 2009 itemized request. Absent such evidence, petitioner fails to demonstrate a clear and indisputable right to relief. Consequently, petitioner is not entitled to mandamus 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

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indisputable right to relief and a lack of other means to redress adequately the alleged wrong or obtain the requested action.).

Therefore,

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

DATED: Honolulu, Hawai'i, May 14, 2009.



Pamela A. Takayama



Pamela E. Duggan, Jr.

Colleen K. Hirai