

NO. 30117

IN THE SUPREME COURT OF THE STATE OF HAWAII

KENNETH WAYNE MATHISON, Petitioner,

vs.

HAWAII PAROLING AUTHORITY, Respondent.

ELI ORLANDO
CLERK, APPELLATE COURTS
STATE OF HAWAII

2009 OCT 30 AM 9:09

FILED

ORIGINAL PROCEEDING

ORDER

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

Upon consideration of the petition for a writ of mandamus filed by petitioner Kenneth Wayne Mathison and the papers in support, it appears that providing inmates with discovery of minimum term fixing materials is discretionary under the Hawaii Paroling Authority's administrative rules and is not mandated by HRPP Rule 16. See HAR § 23-700-22(g) ("An inmate may be afforded the opportunity, subject to security considerations, to consider and review materials the [Hawaii Paroling] Authority has that pertain to the fixing of the inmate's minimum term."); HRPP Rule 1 ("[The HRPP] rules shall govern the procedure [in all penal proceedings] in the courts of the State[.]"). Therefore, petitioner is not entitled to mandamus relief. See HRS § 602-5(3) (Supp. 2008) (The supreme court has jurisdiction and power to issue writs of mandamus directed to public officers to compel them to fulfill the duties of their offices.); In Re Disciplinary Bd. Of Hawaii 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.); Salling v. Moon, 76 Hawai'i 273, 274 n. 3, 874 P.2d 1098, 1099 n.3 (1994) ("A duty is ministerial where the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion and judgment."). Accordingly,

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

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



Pamela C. Kawahara



Kama E. Duggan

Mark E. Dickstein