

NO. 30489

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

ROBERT W. WALTER, Petitioner,

vs.

THE HONORABLE JOSEPH E. CARDOZA, JUDGE OF THE CIRCUIT COURT OF THE SECOND CIRCUIT, STATE OF HAWAI'I; ELIZABETH THOMAS WALTER; and RICHARD C. DRAYSON, Respondents.

JEAN R. KIKUMOTO
CLERK, APPELLATE COURT
STATE OF HAWAII

2010 JUN -3 AM 11:49

FILED

ORIGINAL PROCEEDING
(S.P. No. 07-1-0062(3))

ORDER

(By: Moon, C.J., Nakayama, Acoba, and Duffy, JJ. and Circuit Judge Sakamoto, in place of Reckenwald, J. recused)

Upon consideration of petitioner Robert W. Walter's petition for a writ of mandamus and prohibition and the papers in support and the supplement thereto, it appears that petitioner fails to demonstrate a clear and indisputable right to extraordinary relief. See Kema v. Gaddis, 91 Hawai'i 200, 204, 982 P.2d 334, 338 (1999) (A writ of mandamus and/or prohibition 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. Such writs are not intended to supersede the legal discretionary authority of the lower courts, nor are they intended to serve as legal remedies in lieu of normal appellate procedures. Where a court has discretion to act, mandamus will not lie to interfere with or control the exercise of that discretion, even when the judge has acted erroneously, unless the judge has exceeded his or her jurisdiction, has committed a flagrant and manifest abuse of discretion, or has refused to act

on a subject properly before the court under circumstances in which it has a legal duty to act.). Therefore,

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

DATED: Honolulu, Hawai'i, June 3, 2010.



Justice J. G. Thompson



Justice P. A. Nishimura

