

Electronically Filed
Supreme Court
SCPW-12-0001116
24-JAN-2013
10:31 AM

SCPW-12-0001116

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

MICHAEL C. TIERNEY,
Petitioner,

vs.

TED SAKAI, INTERIM DIRECTOR, DEPARTMENT OF PUBLIC SAFETY,
STATE OF HAWAI'I, Respondent.

ORIGINAL PROCEEDING

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

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

Upon consideration of petitioner Michael C. Tierney's petition for a writ of mandamus, which was filed on December 27, 2012, and the documents attached thereto and submitted in support thereof, it appears that petitioner fails to demonstrate that the relief he seeks is subject to a writ of mandamus. 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); Barnett v. Broderick, 84 Hawai'i 109, 111, 929 P.2d 1359, 1361 (1996)

(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 ministerial duty is one "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"). Therefore,

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

DATED: Honolulu, Hawai'i, January 24, 2013.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

