

**Electronically Filed
Supreme Court
SCPW-13-0000053
22-FEB-2013
02:05 PM**

SCPW-13-0000053

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

HAWAI'I STATE TEACHERS ASSOCIATION, Petitioner,

and

HAWAI'I LABOR RELATIONS BOARD; JAMES B. NICHOLSON, CHAIRPERSON,
HAWAI'I LABOR RELATIONS BOARD; and ROCK B. LEY, MEMBER,
HAWAI'I LABOR RELATIONS BOARD (2013-003), Respondents.

ORIGINAL PROCEEDING
(HLRB CASE NO. CE-05-781)

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

(By: Recktenwald, C.J., Nakayama, Acoba, and Pollack, JJ., and
Circuit Judge Chang, in place of McKenna, J., recused)

Upon consideration of the January 28, 2013 petition for a writ of mandamus filed by the Hawai'i State Teachers Association ("HSTA"), the documents attached thereto and submitted in support thereof, and the record, it appears that, at this time, the HSTA is not entitled to the requested mandamus relief in light of the voluminous record, the extended duration of the proceedings, and other relevant circumstances concerning the disposition of other prohibited practices cases before the Hawai'i Labor Relations Board. 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); In re Disciplinary Bd., 94 Hawai'i 363, 368 & 371, 984 P.2d 688, 693 & 695 (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). Therefore,

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

DATED: Honolulu, Hawai'i, February 22, 2013.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Richard W. Pollack

/s/ Gary W.B. Chang

