

**Electronically Filed
Supreme Court
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SCPW-13-0006212

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

MONTY V. RIDEOUT, Petitioner,

vs.

STATE OF HAWAI'I, Respondent.

ORIGINAL PROCEEDING
(CAAP-13-0001700; S.P.P. No. 13-1-001K)

ORDER DENYING "AMENDMENT TO SUPPLEMENT WRIT OF
CERTIORARI; MOTION FOR ASSIGNED COUNSEL"

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

Upon review of petitioner Monty V. Rideout's "Amendment to Supplement Writ of Certiorari; Motion for Assigned Counsel", which was filed on December 23, 2013, and which we review as a petition for a writ of mandamus, the supporting documents, and the record, it appears that petitioner is not entitled to a writ of mandamus. Petitioner does not have a clear and indisputable right to the appointment of counsel for an appeal in a post-conviction proceeding and fails to demonstrate that he is eligible for appointed counsel or that the appeal warrants the

discretionary appointment of counsel. Petitioner, moreover, has alternative means to seek release on bail. See Kema v. Gaddis, 91 Hawai'i 200, 204-05, 982 P.2d 334, 338-39 (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; where a court has discretion to act, mandamus will not lie to interfere with or control the exercise of that discretion, even when the court has acted erroneously, unless the court has exceeded its 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). Accordingly,

IT IS HEREBY ORDERED that the clerk of the appellate court shall process the petition for a writ of mandamus without payment of the filing fee.

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

DATED: Honolulu, Hawai'i, January 8, 2014.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

