



Magno v. State

2014 | Cited 0 times | Hawaii Supreme Court | June 5, 2014

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SCPW-14-0000849

IN THE SUPREME COURT OF THE STATE OF HAWAII#I

KENNEDY MAGNO, Petitioner,

vs.

STATE OF HAWAII#I, Respondent.

ORIGINAL PROCEEDING (CR. NO. 11-1-0644)

ORDER DENYING PETITION FOR WRIT OF MANDAMUS (By: Recktenwald, C.J., Nakayama, McKenna, Pollack, and Wilson, JJ.)

Upon consideration of petitioner Kennedy Magno's letter to the court, filed on May 22, 2014, which we review as a petition for a writ of mandamus, and the record, it appears that petitioner fails to demonstrate that he has a clear and indisputable right to the requested relief and that he lacks alternative means to seek relief. Petitioner may seek relief, as appropriate, from the parole board or by way of a HRPP Rule 40 petition. An extraordinary writ, therefore, is not warranted.

See Kema v. Gaddis, 91 Hawai'i 200, 204, 982 P.2d 334 , 338 (1999)



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(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); De La Garza v. State, 129 Hawai#i 429, 438, 302 P.3d 697 , 706 (2013) (a HRPP Rule 40 petition for post-conviction relief is an appropriate means to challenge a minimum term of imprisonment set by the paroling authority). 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, June 5, 2014.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Richard W. Pollack

/s/ Michael D. Wilson

