

NO. 28650

IN THE SUPREME COURT OF THE STATE OF HAWAII

KURT MAUSERT, Petitioner,

vs.

DEPARTMENT OF THE ATTORNEY GENERAL, STATE OF HAWAII;  
MARK BENNETT; CHRISTOPHER YOUNG;  
DEPARTMENT OF THE PROSECUTING ATTORNEY, CITY AND  
COUNTY OF HONOLULU; PETER CARLISLE, Respondents.

EM RIMANDO  
CLERK, APPELLATE COURTS  
STATE OF HAWAII

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FILED

ORIGINAL PROCEEDING

ORDER

(By: Moon, C.J., Levinson, Nakayama, Acoba, and Duffy, JJ.)

Upon consideration of the petition for a writ of mandamus filed by petitioner Kurt Mausert and the papers in support, it appears that Hawai'i Revised Statutes (HRS) § 801D-4(a)(1) (Supp. 2006) affords petitioner the right to notice of a final disposition or a major development, as defined by HRS § 801D-2 (1993). Petitioner acknowledges notice from the Attorney General, which is notice in accordance with HRS § 801D-4(a)(1) (Supp. 2006) inasmuch as it is notice of a major development, as defined by HRS § 801D-2 (1993), and the basis for the notice is not a statutory requirement. Petitioner fails to demonstrate that a final disposition or a major development, as defined by HRS § 801D-2 (1993), has been effected by the Prosecuting Attorney for which petitioner is entitled to notice under HRS § 801D-4(a)(1) (Supp. 2006). Therefore, petitioner fails to demonstrate a clear and indisputable right to relief and is not entitled to a writ of mandamus. See Kema v. Gaddis, 91 Hawai'i 200, 204, 982 P.2d 334, 338 (1999) (A writ of mandamus will not

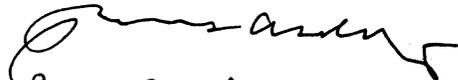
issue unless a petitioner demonstrates a clear and indisputable right to relief and a lack of other means to redress adequately the alleged wrong or obtain the requested action; In Re Disciplinary Bd. of Hawaii Supreme Court, 91 Hawai'i 363, 984 P.2d 688 (1999) (Mandamus relief is available to compel 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, August 14, 2007.



Steven H. Levinson



Kama E. Duggan