

NO. 29416

IN THE SUPREME COURT OF THE STATE OF HAWAII

DUKE W. HOLT, Petitioner,

vs.

THE HONORABLE RHONDA A. NISHIMURA, JUDGE OF THE CIRCUIT
COURT OF THE FIRST CIRCUIT, STATE OF HAWAII, Respondent.ORIGINAL PROCEEDING
(CR. NO. 06-1-0017)ORDER

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

Upon consideration of the petition for a writ of prohibition -- styled an "application for a writ of mandamus" -- filed by petitioner Duke W. Holt and the papers in support, it appears that the matter of the court-ordered polygraph examination for purposes of the presentence investigation and report will be reviewable on appeal of the sentence imposed in the pending sentencing proceeding in Cr. No. 06-1-0017. Petitioner can appeal the sentence pursuant to HRS § 641-11 (Supp. 2007) and he is not entitled to the extraordinary relief of prohibition. See Kema v. Gaddis, 91 Hawai'i 200, 204-05, 982 P.2d 334, 338-39 (1999) (A writ of prohibition 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. Such writs are not intended to supersede the legal discretionary authority of the lower courts, nor are they intended to serve as legal remedies in lieu of normal appellate procedures.). Accordingly,

K. HAMAKA'DD
CLERK, APPELLATE COURTS
STATE OF HAWAII

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FILED

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

DATED: Honolulu, Hawai'i, November 6, 2008.



Steven H. Levinson

Aunani Urasaki



James E. Dubbs