

FILED

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CLERK, APPELLATE COURTS
STATE OF HAWAII
E. J. RICHMOND

NO. 29829

IN THE SUPREME COURT OF THE STATE OF HAWAII

MICHAEL C. TIERNEY, Petitioner,

vs.

CLAYTON FRANK, DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY, STATE OF HAWAII and PETER CARLISLE, PROSECUTING ATTORNEY, CITY AND COUNTY OF HONOLULU, Respondents.

ORIGINAL PROCEEDING

ORDER

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

Upon consideration of the petition for a writ of mandamus filed by petitioner Michael C. Tierney and the papers in support, it appears that petitioner fails to demonstrate a clear and indisputable right to relief. Therefore, petitioner is not entitled to mandamus relief. See HRS § 602-5(3) (Supp. 2008) (The supreme court has jurisdiction and power to issue writs of mandamus directed to public officers to compel them to fulfill the duties of their offices.); In Re Disciplinary Bd. of Hawaii Supreme Court, 91 Hawai'i 363, 368, 984 P.2d 688, 693 (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.). 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 FURTHER ORDERED that the petition for a writ of mandamus is denied.

DATED: Honolulu, Hawai'i, June 12, 2009.

James C. ...

James E. Dobby Jr.

Mr. E. ...