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Supreme Court
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NO. 30739

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

NELLIE E. LAIRD-WOODS, Petitioner,

vs.

JEFFREY T. KUWADA, Clerk of the County of Maui,
and DENNIS MATEO, Respondents.

ORIGINAL PROCEEDING

ORDER

(By: Recktenwald, C.J., Nakayama, Acoba, and Duffy, JJ.
and Circuit Judge Perkins, assigned by reason of vacancy)

Upon consideration of petitioner Nellie E. Laird-Woods' petition for a writ of mandamus, it appears that deciding the merits of petitioner's objection to the nomination papers of Dennis Mateo was within the discretion of respondent Maui County Clerk. Petitioner can appeal from the judgment denying her petition for a writ of mandamus entered in S.P. No. 10-1-0058 and petitioner can file a declaratory action or a *quo warranto* petition in the circuit court if respondent Dennis Mateo is elected in the November 2, 2010 special election. Therefore, petitioner is not entitled to mandamus relief against respondent Maui County Clerk. See HRS § 12-8(d) and (e) (1993); HRS § 602-5(3) (Supp. 2009) (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.); Barnett v. Broderick, 84 Hawai'i 109, 111, 929 P.2d 1359, 1361 (1996) (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.); Salling v. Moon, 76 Hawai'i 273, 274 n. 3, 874 P.2d 1098, 1099 n.3 (1994) ("A duty is ministerial where the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of discretion and judgment.").

It further appears that mandamus does not lie against respondent Dennis Mateo inasmuch HRS § 602-5(3) authorizes mandamus against public officers and petitioner seeks mandamus against respondent Mateo as a candidate for the Maui County Council. Accordingly,

IT IS HEREBY ORDERED that the petition for a writ of mandamus is denied as to respondent Maui County Clerk and dismissed as to respondent Mateo.

DATED: Honolulu, Hawai'i, October 15, 2010.

/s/ Mark E. Recktenwald
/s/ Paula A. Nakayama
/s/ Simeon R. Acoba, Jr.
/s/ James E. Duffy, Jr.
/s/ Richard K. Perkins

