

**Electronically Filed
Supreme Court
SCPW-10-0000228
06-JAN-2011
12:01 PM**

NO. SCPW-10-0000228

IN THE SUPREME COURT OF THE STATE OF HAWAII

TRINA ELLEN KALANIMINOAKA MEI JUNN WEGESEND, Petitioner,

vs.

CLERK OF THE DISTRICT COURT OF THE FIRST CIRCUIT,
STATE OF HAWAII, Respondent.

ORIGINAL PROCEEDING
(CIVIL NO. 1RC10-1-4628)

ORDER

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

Upon consideration of petitioner Trina Ellen Kalaniminoaka Mei Junn Wegesend's petition for a writ of mandamus and the papers in support, it appears that: (1) the district court clerk was not obliged to release the rent trust funds to petitioner inasmuch as the district court's November 8, 2010 order dismissing Civil No. 1RC10-1-4628 for lack of subject matter jurisdiction did not order the release of the rent trust funds, but ordered that the matter of the rent trust fund was "suspended" and that "any issues regarding a Rent Trust Fund shall be addressed to the Circuit Court;" and (2) petitioner can either appeal the district court's December 13, 2010 denial of the ex parte motion for release of the rent trust funds or seek release of the rent trust funds from the circuit court pursuant to HRS § 603-21.9(6) (1993). Therefore, petitioner is not entitled to mandamus relief. See Kema v. Gaddis, 91 Hawai'i 200,

204, 982 P.2d 334, 338 (1999) (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.); In re. Disciplinary Bd. Of the 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 petition for a writ of mandamus is denied.

DATED: Honolulu, Hawai'i, January 6, 2011.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Simeon R. Acoba, Jr.

/s/ James E. Duffy, Jr.

/s/ Fa'auuga To'oto'o

