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SCPW-23-0000061

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

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DONALD B. MARKS, Petitioner,

vs.

THE HONORABLE TRISH K. MORIKAWA,  
Judge of the Circuit Court of the First Circuit,  
State of Hawai‘i, Respondent.

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ORIGINAL PROCEEDING  
(CASE NO. 1CPN-21-0000002)

ORDER DENYING PETITION FOR WRIT OF MANDAMUS

(By: Recktenwald, C.J., Nakayama, McKenna, Wilson, and Eddins, JJ.)

Upon consideration of Donald B. Marks’s petition for a writ of mandamus, filed on February 6, 2023, the documents attached thereto and submitted in support thereof, and the record in Donald B. Marks v. State of Hawai‘i, 1CPN-21-0000002, we conclude that Petitioner Marks has failed to demonstrate that he has a clear and indisputable right to relief, insofar as we conclude it cannot be said that the respondent judge has committed a flagrant and manifest abuse of discretion or has refused to act on a matter in presiding over the case. See Kema v. Gaddis, 91 Hawai‘i 200, 204-05, 982 P.2d 334, 338-39 (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). Accordingly,

It is ordered that the petition for writ of mandamus is denied.

It is further ordered that, in light of the Petitioner's incarceration, the clerk of the court shall serve upon the respondent judge a copy of the petition and this instant order, in compliance with Rule 21(a) of the Hawai'i Rules of Appellate Procedure.

DATED: Honolulu, Hawai'i, February 9, 2023.

/s/ Mark E. Recktenwald

/s/ Paula A. Nakayama

/s/ Sabrina S. McKenna

/s/ Michael D. Wilson

/s/ Todd W. Eddins

