

IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

FILED

2020 APR 24 AM 8:17

SUPREME COURT
OF THE
REPUBLIC OF PALAU

ELLENDER NGIRAMEKETII,

Petitioner,

v.

LOURDES F. MATERNE,
ASSOCIATE JUSTICE OF THE
SUPREME COURT

and

REPUBLIC OF PALAU,

Respondents.

SPECIAL PROCEEDING NO. 20-002
(Ref. Case No. Cr. 19-097)

**DENIAL OF WRIT OF
MANDAMUS**

PER CURIAM:

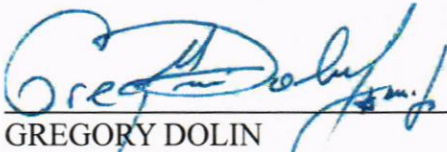
Before the Court is Petitioner Ellender Ngirameketii's Petition for a *Writ of Mandamus* pursuant to ROP R. Civ. P. 21, which was filed on April 6, 2020. The Republic of Palau filed a brief in opposition on April 13, 2020. On April 14, 2020, the Petitioner filed a motion to strike the Republic's response as allegedly premature.


A *writ of mandamus* will issue only upon showing that "there is: 1) a specific, incontrovertible right in the petitioner to have the act in question performed; 2) a corresponding ministerial duty to be performed by the respondent; and 3) no other specific and adequate relief, such as appeal, available." *ROP v. Asanuma & Malsol*, 3 ROP Intrm. 48, 49 (1991). Failure to meet any one of the criteria is fatal to the petition.

The Court notes that on October 16, 2019 the Petitioner has filed an interlocutory appeal from the same Trial Division Order that is subject to the present writ petition. That appeal remains pending. *See* Crim. App. No. 19-004. While, at present, we express no opinion on the merits of Petitioner's pending appeal, the availability of that avenue for relief disentitles the Petitioner from relief via *mandamus*.

Accordingly, the Petition for the Writ of Mandamus is **DENIED**. The Motion to Strike the Republic's brief in opposition is **DENIED** as moot.

SO ORDERED this 24th day April, 2020.


GREGORY DOLIN
Associate Justice


DANIEL R. FOLEY
Associate Justice


KEVIN BENNARDO
Associate Justice