

NO. 26116

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

PAUL KAY CORONEL, Petitioner

vs.

SABRINA MCKENNA, Judge,
Circuit Court of the First Circuit, Respondent

ORIGINAL PROCEEDING

ORDER DENYING PETITION FOR WRIT OF MANDAMUS AND
EX PARTE MOTION FOR ORDER TO SHOW CAUSE

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

Upon consideration of Petitioner Paul Kay Coronel's petition for a writ of mandamus and ex parte motion for order to show cause, the papers in support, and the records and files herein, it appears that: (1) Petitioner seeks an order directing the respondent judge to vacate the order transferring Petitioner's verified petition for declaratory judgment, Coronel v. State, Civil No. 03-1-1088, to the Circuit Court of the Third Circuit, Kona Division, and issue a ruling on the petition; (2) the petition for declaratory judgment was filed in the Circuit Court of the Third Circuit, Kona Division, as a nonconforming petition for post-conviction relief and docketed as Coronel v. State, SPP No. 03-1-006K, pursuant to HRPP Rule 40(c)(2); (3) if the circuit court issues an adverse ruling in Coronel v. State, SPP No. 03-1-006K, Petitioner will have a remedy by way of appeal and can raise any issue related to the finding that the petition is a nonconforming petition for post conviction relief as a point of error on appeal; and (4) because Petitioner will have a remedy by way of appeal, he is not entitled to a writ of mandamus. See State v. Hamili, 87 Hawai'i

102, 104, 952 P.2d 390, 392 (1998) (citing Straub Clinic & Hospital v. Kochi, 81 Hawai'i 410, 414, 917 P.2d 1284, 1288 (1996)) (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 the alleged wrong or obtain the requested action; such writs are not meant to supersede the legal discretionary authority of the lower courts, nor are they meant to serve as legal remedies in lieu of normal appellate procedures). Therefore,

IT IS HEREBY ORDERED that the petition for a writ of mandamus is denied without prejudice to any remedy Petitioner may have by way of appeal from an adverse judgment entered in the pending third circuit court case.

IT IS FURTHER ORDERED that the ex parte motion for an order to show cause is denied.

DATED: Honolulu, Hawai'i, December 5, 2003

Paul Kay Coronel,
petitioner pro se,
on the writ and
motion