

**Electronically Filed  
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SCPW-23-0000608

IN THE SUPREME COURT OF THE STATE OF HAWAI'I

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MARSHALL MARTINEZ,  
Petitioner,

vs.

THE HONORABLE SHIRLEY M. KAWAMURA,  
Judge of the Circuit Court of the First Circuit,  
State of Hawai'i, Respondent Judge,

and

SHANNON CLUNEY, WARDEN FOR HALAWA CORRECTIONAL FACILITY,  
Respondent.

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ORIGINAL PROCEEDING  
(CASE NO. 1CPN-23-0000003)

ORDER DENYING MOTION

(By: Recktenwald, C.J., McKenna, and Eddins, JJ.,  
Circuit Judge Morikone and Circuit Judge Park,  
assigned by reason of vacancies)

Upon consideration of the motion filed on December 4, 2023, which we construe as requesting further review as a petition for a writ of habeas corpus, and the record, habeas corpus proceedings in Hawai'i state courts are governed by Hawai'i Revised Statutes (HRS) Chapter 660, not federal statutes.

Although this court has original concurrent jurisdiction with the circuit court to issue writs of habeas corpus, see HRS § 660-3 (2016), this court will not exercise its original jurisdiction in habeas corpus proceedings “when relief is available in the lower court and no special reason exists for invoking [this court’s] jurisdiction.” Oili v. Chang, 57 Haw. 411, 412, 557 P.2d 787, 788 (1976); see Hawai‘i Rules of Penal Procedure (HRPP) Rule 40(a) (“The post-conviction proceeding established by this rule shall encompass all common law and statutory procedures for the same purpose, including habeas corpus . . . ; provided that the foregoing shall not be construed to limit the availability of remedies in the trial court or on direct appeal.”).

Appellate review of the circuit court’s order dismissing Petitioner’s HRPP Rule 40 petition is currently pending in the Intermediate Court of Appeals in CAAP-23-0000560. Petitioner has not demonstrated a special reason for invoking this court’s original jurisdiction in habeas corpus proceedings. Petitioner’s arguments disputing the circuit court’s dismissal of the HRPP Rule 40 petition should be filed in CAAP-23-0000560 - not this proceeding.

It is ordered that the motion is denied.

DATED: Honolulu, Hawai‘i, December 15, 2023.

/s/ Mark E. Recktenwald

/s/ Sabrina S. McKenna

/s/ Todd W. Eddins

/s/ Kevin T. Morikone

/s/ Shanlyn A.S. Park

