

**Electronically Filed
Supreme Court
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SCPW-23-0000608

IN THE SUPREME COURT OF THE STATE OF HAWAI‘I

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.

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

ORDER DENYING PETITION FOR WRIT OF MANDAMUS
(By: Recktenwald, C.J., McKenna, and Eddins, JJ.,
Circuit Judge Morikone and Circuit Judge Park,
assigned by reason of vacancies)

Upon consideration of the documents filed on October 24,
2023, which we construe as a petition for writ of mandamus, and
the record, the circuit court was divested of jurisdiction over
1CPN-23-0000003 when the notice of appeal was filed on September

13, 2023. See State v. Ontiveros, 82 Hawai‘i 446, 448-49, 923 P.2d 388, 390-91 (1996) (“The general rule is that the filing of a notice of appeal divests the trial court of jurisdiction over the appealed case.” (Citation and brackets omitted.)).

Petitioner has not demonstrated a clear and indisputable right to relief, nor a lack of alternative means to seek relief. Kema v. Gaddis, 91 Hawai‘i 200, 204, 982 P.2d 334, 338 (1999).

It is ordered that the petition is denied.

It is further ordered that the appellate clerk shall file a copy of Dockets 1 and 2 of this original proceeding, together with a copy of this order, in CAAP-23-0000560. Relief may be granted by the Intermediate Court of Appeals, if and as appropriate.

DATED: Honolulu, Hawai‘i, November 21, 2023.

/s/ Mark E. Recktenwald

/s/ Sabrina S. McKenna

/s/ Todd W. Eddins

/s/ Kevin T. Morikone

/s/ Shanlyn A.S. Park

