IN THE
SUPREME COURT OF THE REPUBLIC OF PALAU
APPELLATE DIVISION

ELLENDER NGIRAMEKETII,
Petitioner,
v.
LOURDES F. MATERNE, Associate Justice of the Supreme Court
and
REPUBLIC OF PALAU,
Respondents.

Cite as: 2020 Palau 23
Special Proceeding No. 20-002
Criminal Case No. 19-097

Decided: April 24, 2020

Counsel for Petitioner   …………………………………...…… Brien Sers Nicholas

BEFORE: GREGORY DOLIN, Associate Justice
DANIEL R. FOLEY, Associate Justice
KEVIN BENNARDO, Associate Justice

ORDER DENYING WRIT OF MANDAMUS[1]

PER CURIAM:

[¶ 1] Before the Court is Petitioner Ellender Ngirameketii's Petition for a *Writ of Mandamus* pursuant to ROP R. App. 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.

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[1] This Order has been reformatted for publication, and typographical errors not affecting the disposition have been corrected.

[¶ 2] 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.

[¶ 3] The Court notes that on October 16, 2019, the Petitioner 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*.

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